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Agenda item 13
Protracted conflicts in the GUAM area and their implications for international peace, security and development

Security Council
Sixty-fourth year

Identical letters dated 22 January 2009 from the Chargé d'affaires a.i. of the Permanent Mission of Georgia to the United Nations addressed to the Secretary-General and the President of the Security Council

I have the honour to transmit four statements of the Ministry of Foreign Affairs of Georgia (see annex).

I should be grateful if the present letter and its annex were to be circulated as a document of the sixty-third session of the General Assembly, under agenda item 13, "Protracted conflicts in the GUAM area and their implications for international peace, security and development", and of the Security Council.

(*Signed*) Irakli **Chikovani**
Chargé d'affaires a.i.

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Annex to the identical letters dated 22 January 2009 from the Chargé d'affaires of the Permanent Mission of Georgia to the United Nations addressed to the Secretary-General and the President of the Security Council

Enclosure 1

Statement of the Ministry of Foreign Affairs of Georgia regarding the shooting of a Georgian policeman from the occupied territory

Based on the reports of the Ministry of Internal Affairs of Georgia, as a result of fire opened from the occupied territory on 16 January 2009, at 10 a.m., Mamuka Kakhniashvili, a policeman of the Kvemo Kartli Regional Police Division, was killed near the police checkpoint in the village of Knolevi, Kareli district. According to the information available to the Georgian side, the fire came from a sniper rifle equipped with a silencer. As a result of the incident, the death toll of Georgian policemen shot from the occupied territories within the last two months increased to 11.

It is evident that the Russian occupiers and the proxy regimes under their control are continuing with their insolent and targeted provocative actions, keeping death numbers on the rise.

The Georgian side would like to underline, once again, that in order to create firm security guarantees and eventually put an end to such terrorist acts, it is necessary to provide international monitors with immediate access to Abkhazia and the Tskhinvali region of Georgia and to urgently deploy international peacekeeping and/or police missions in the occupied territories.

The Ministry of Foreign Affairs of Georgia once again emphasizes that all responsibility for the actions carried out from the occupied territories will rest exclusively with the Russian Federation.

Tbilisi, 16 January 2009

Enclosure 2

Statement of the Ministry of Foreign Affairs of Georgia

On 16 January 2009, after Mamuka Kakhniashvili, a policeman of the Kvemo Kartli Regional Police Division, was killed in the village of Knolevi, Kareli district, as a result of a terrorist act committed from the occupied territory, Russian occupation airborne troops landed by military helicopters on the territory in the vicinity of the village. After a certain period of time the troops were withdrawn.

A. Tarasov, a military representative of the Russian occupation troops, claimed that the landing of troops was aimed at avoiding further aggravation of the situation.

Thus, Russian occupiers first committed a terrorist act, killing a law enforcer, and then carried out a military landing operation in the conflict zone. Against such a background, the actions and statements of the Russian side can be viewed as yet another culpable provocation and cynicism utterly beyond comprehension.

It should be emphasized that the criminal actions of the Russian occupation troops took place on the same day as the presentation of credentials ceremony that was held by the President of Russia in the Kremlin. "Ambassadors" of the pseudo-states of Abkhazia and South Ossetia participated in the ceremony on an equal footing with the Ambassadors of internationally recognized States.

The Russian Federation is persistent in its efforts to force upon the international community its own virtual reality, acceptable only to itself. We are fully confident that such attempts aimed at the legitimization of the proxy regimes is, a priori, doomed to failure.

We would like to remind the Russian Authorities dragging their own country and people into confrontation with, and isolation from, the international community that this policy of mixing an objective reality with a virtual one will result in disastrous consequences for both an individual and a state.

On a closing note, we would like to rephrase a well-known maxim: "each country has the allies it deserves".

Tbilisi, 16 January 2009

Enclosure 3

Statement of the Ministry of Foreign Affairs of Georgia on the shootings near the village of Dvani, Kareli district

Based on reports of the Ministry of Internal Affairs of Georgia, on 19 January 2009, at 5 p.m., Russian occupiers and illegal armed gangs under their control opened fire and riddled with bullets a police pick-up truck patrolling a Georgian checkpoint area in the vicinity of Dvani village, Kareli district. As a result of intensive gunfire attack, two policemen of the Ministry of Internal Affairs of Georgia were wounded.

It needs to be emphasized that this is the third attack on Georgian policemen on the territory adjacent to the administrative border in the last two days. An increased series of shootings left one policeman dead and three others wounded.

It is important to note that this, yet another, insolent attack coincided with the release of the Russian President's Decree on the prohibition of the supply of military and dual-use equipment to Georgia, by which Russia tries to impose an embargo on Georgia and warns the international community rejecting such restrictions of imminent sanctions.

The provocative actions of the Russian side provide ample proof for the international community to see which country provides a real source of threat to peace and stability in the Caucasus region.

The Ministry of Foreign Affairs of Georgia expresses its strong protest over Russia's aggressive acts that have taken place in the last few days and is confident that the international community will make a proper assessment of Russia's provocative actions and will draw logical conclusions from the aforementioned facts.

Tbilisi, 19 January 2009

Enclosure 4

Statement of the Ministry of Foreign Affairs of Georgia on the attack carried out in the village of Koki, Zugdidi district

Based on the reports of the Ministry of Internal Affairs of Georgia, on 18 January 2009, at 5 a.m., a Georgian police checkpoint situated in the village of Koki, Khurcha area, Zugdidi district, came under fire from the territory controlled by Russia and the Sokhumi proxy regime. The attack involved both rifles and grenade launchers. As a result, a policeman was wounded and taken to hospital. Criminal proceedings have been instituted for this terrorist act, as for other previous attacks, under applicable provisions of Georgian legislation.

The Ministry of Foreign Affairs of Georgia expresses extreme concern and strong protest over this, yet another, act of provocation committed from the occupied territory and reaffirms that all responsibility for all other culpable actions will rest exclusively with the Russian Federation.

This attack and the killing of the Georgian policeman on 16 January 2009, as well as tens of previous provocations which have left 11 Georgian policemen and two peaceful citizens dead and tens of others wounded, provide a chain of well-thought-out and deliberate attempts aimed at destabilizing the situation and dragging the Georgian side into another large-scale military provocation. It becomes increasingly obvious that the existing situation calls for urgent and effective action from the international community.

The Incident Prevention and Response Mechanism discussed during the Geneva talks on 17 and 18 December 2008 and blocked, as is widely known, by the Russian Federation and the proxy regimes under its control, was designed to prevent and investigate facts similar to those indicated above. The Ministry of Foreign Affairs of Georgia expresses hope that the issue of creating such mechanism will be decided positively within the February round of the Geneva talks.

At the same time, in order to prevent a recurrence of such provocations in the future, it is necessary to carry out effective international monitoring, first of all on the territories occupied and fully controlled by Russia. European Union (EU) monitors, as well as Organization for Security and Cooperation in Europe (OSCE) and United Nations observers, should be immediately given a right to free movement throughout the occupied regions and to unhindered implementation of their mandated tasks.

The incident of 18 January confirms once again the necessity of launching a complex large-scale peacekeeping operation based on the United Nations Observer Mission in Georgia (UNOMIG). In terms of removing the threat emanating from the occupied territories and preventing a possible military confrontation, it will be extremely important to grant this new mission increased peacekeeping, police and observer capabilities on both sides of the administrative border, and in the occupied territories in particular.

The Ministry of Foreign Affairs of Georgia emphasizes that firm guarantees of security and stability can only be provided through Russia's full compliance with the six-point ceasefire agreement and complete de-occupation of Georgia's regions of Abkhazia and South Ossetia.

Tbilisi, 18 January 2009

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Sixty-third session
Agenda item 144 (b)
Financing of the United Nations peacekeeping forces in the Middle East: United Nations Interim Force in Lebanon

Budget for the United Nations Interim Force in Lebanon for the period from 1 July 2009 to 30 June 2010

Report of the Secretary-General

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Summary

The present report contains the budget for the United Nations Interim Force in Lebanon (UNIFIL) for the period from 1 July 2009 to 30 June 2010, which amounts to $646,580,400.

The budget provides for the deployment of 15,000 military contingent personnel, 412 international staff and 833 national staff, including temporary positions.

The total resource requirements for UNIFIL for the financial period from 1 July 2009 to 30 June 2010 have been linked to the Force's objective through a number of results-based-budgeting frameworks, organized according to components (operations and support). The human resources of the Force, in terms of the number of personnel, have been attributed to the individual components, with the exception of the Force's executive direction and management, which can be attributed to the Force as a whole.

The explanations of variances in resource levels, both human resources and financial resources, have been linked, where applicable, to specific outputs planned by the Force.

Financial resources

(Thousands of United States dollars. Budget year is from 1 July 2009 to 30 June 2010.)

Category	*Expenditure (2007/08)*	*Apportionment (2008/09)*	*Cost estimates (2009/10)*	*Variance*	
				Amount	*Percentage*
Military and police personnel	298 188.3	341 337.0	327 967.7	(13 369.3)	(3.9)
Civilian personnel	78 731.2	92 966.3	100 409.4	7 443.1	8.0
Operational costs	214 669.5	216 452.3	218 203.3	1 751.0	0.8
Gross requirements	**591 589.0**	**650 755.6**	**646 580.4**	**(4 175.2)**	**(0.6)**
Staff assessment income	9 168.3	11 043.8	11 280.6	236.8	2.1
Net requirements	**582 420.7**	**639 711.8**	**635 299.8**	**(4 412.0)**	**(0.7)**
Voluntary contributions in kind (budgeted)	—	—	—	—	—
Total requirements	**591 589.0**	**650 755.6**	**646 580.4**	**(4 175.2)**	**(0.6)**

Human resources[a]

	Military contingents	*International staff*	*National staff*[b]	*Temporary positions*[c]	*Total*
Executive direction and management					
Approved 2008/09	—	18	1	2	**21**
Proposed 2009/10	—	18	3	2	**23**
Components					
Operations					
Approved 2008/09	15 000	37	24	—	**15 061**
Proposed 2009/10	15 000	36	27	—	**15 063**
Support					
Approved 2008/09	—	353	817	3	**1 173**
Proposed 2009/10	—	353	803	3	**1 159**
Total					
Approved 2008/09	15 000	408	842	5	16 255
Proposed 2009/10	15 000	407	833	5	16 245
Net change	—	**(1)**	**(9)**	—	**(10)**

[a] Represents highest level of authorized/proposed strength.
[b] Includes National Officers and national General Service staff.
[c] Funded under general temporary assistance.

The actions to be taken by the General Assembly are set out in section V of the present report.

I. Mandate and planned results

A. Overall

1. The mandate of the United Nations Interim Force in Lebanon (UNIFIL) was established by the Security Council in its resolutions 425 (1978) and 426 (1978), expanded in its resolution 1701 (2006) and extended in subsequent resolutions of the Council. The most recent extension of the mandate was authorized by the Council in its resolution 1832 (2008), by which it extended the mandate until 31 August 2009.

2. The Force is mandated to help the Security Council achieve an overall objective, namely, to restore international peace and security in southern Lebanon.

3. Within this overall objective, UNIFIL will, during the budget period, contribute to a number of expected accomplishments by delivering related key outputs, shown in the frameworks below. These frameworks are organized according to components (operations and support).

4. The expected accomplishments would lead to the fulfilment of the Security Council's objective within the lifetime of the Force and the indicators of achievement show a measurement of progress towards such accomplishments during the budget period. The human resources of UNIFIL, in terms of the number of personnel, have been attributed to the individual components, with the exception of the Force's executive direction and management, which can be attributed to the Force as a whole. Variances in the number of personnel, compared to the 2008/09 budget, including reclassifications, have been explained under the respective components.

5. The Security Council, in its resolutions 425 (1978) and 426 (1978), decided to establish a United Nations interim force for southern Lebanon for the purpose of confirming the withdrawal of Israeli forces, restoring international peace and security, and assisting the Government of Lebanon in ensuring the return of its effective authority in the area. By its resolution 1701 (2006), the Council decided, in order to supplement and enhance the Force in numbers, equipment, mandate and scope of operations, to authorize an increase in the Force strength to a maximum of 15,000 troops. By the same resolution, the Council decided that the mandate of the Force, in addition to carrying out its mandate under resolutions 425 (1978) and 426 (1978), would include, inter alia, monitoring the cessation of hostilities, accompanying and supporting the deployment of the Lebanese Armed Forces throughout southern Lebanon in parallel with the withdrawal of the Israeli Defense Forces, ensuring respect for the Blue Line and assisting the Lebanese Armed Forces in ensuring that the area between the Blue Line and the Litani River is free of any unauthorized armed personnel, assets and weapons, taking all necessary action within its capabilities to ensure that its area of operations is not utilized for hostile activities, and assisting the Government of Lebanon, at its request, in securing its borders and other entry points in order to prevent the entry into Lebanon without its consent of arms or related materiel.

6. UNIFIL headquarters, which houses the Offices of the Force Commander, the Director of Mission Support and the Director of Political and Civil Affairs, is located in Naqoura, some kilometres from the Blue Line and 90 km from Beirut. As the capital and principal point of entry to Lebanon by sea and air, Beirut hosts a

small UNIFIL Office with liaison and political personnel as well as support personnel who interface with immigration and customs authorities, vendors and United Nations offices in Beirut, primarily to facilitate the flow of personnel and equipment destined for, or repatriating from, UNIFIL. It is currently projected that an office in Tel Aviv will be functional during the 2009/10 period, which will provide enhanced liaison and coordination functions with the Israeli military and other relevant Government authorities.

B. Planning assumptions and mission support initiatives

7. During the 2009/10 period, UNIFIL would continue its regular operational activities of monitoring the cessation of hostilities and assisting the Lebanese Armed Forces in maintaining its area of operations free of unauthorized armed personnel, assets and weapons other than those of UNIFIL and the Lebanese Armed Forces through its regular patrolling activities and efforts to prevent violations of the Blue Line, working closely in coordination with the Lebanese Armed Forces. At the same time, the Maritime Task Force would continue to patrol and conduct maritime interdiction operations in the UNIFIL area of maritime operations. In undertaking its mandated operational activities, the Force would continue to intensify its cooperation and coordination with the Lebanese Armed Forces and would maintain a high level of liaison and coordination with the Lebanese Armed Forces and the Israeli Defense Forces, with a view to maintaining the cessation of hostilities and preventing violations of Security Council resolution 1701 (2006). In this connection, UNIFIL would continue to facilitate and lead a tripartite mechanism with representatives from the Lebanese Armed Forces and the Israeli Defense Forces.

8. The planning assumptions for 2009/10 are based on the operation of the Force at the maintenance level, as reflected in the 2008/09 period, while continuing with the expansion of Force headquarters at an estimated cost of $9.8 million and introducing a number of green initiatives. While UNIFIL continues to expand and enhance its cooperation and coordination with the Lebanese Armed Forces on the ground, it is anticipated that the number of troops would remain relatively stable during 2009/10.

9. The proposed 2009/10 budget includes resource requirements for the Strategic Military Cell, comprising 2 civilian staff (1 D-2 and 1 General Service (Other level)) and 15 military staff officers, pursuant to paragraphs 23 and 24 of General Assembly resolution 62/265, and pending the consideration by the Assembly at its sixty-fourth session of the comprehensive report on the implementation of the strengthening of the Office of Military Affairs and its impact on the organization of the Office.

10. UNIFIL civilian personnel will continue to provide political advice and guidance to the military component and to conduct an increased number of civil affairs and public information activities. In particular, UNIFIL has identified an increased requirement for activities that will assist the Government of Lebanon in extending its authority in southern Lebanon and in increasing the capacity of the Lebanese Armed Forces to provide security within the Force's area of operations, including (a) enhancing the civilian-military coordination capacity of the Lebanese Armed Forces through continuous engagement with the Lebanese Armed Forces, (b) training in the management, mediation and resolution of localized conflict within

its area of operations in order to increase the Force's capacity to design local community projects, with the objective of increasing the capacity of the Lebanese Armed Forces to deliver conflict sensitivity and preventive/mediation training, (c) the development and application of a series of externally funded surveys to assess the local communities' perception of UNIFIL and to assess their understanding of the Force's mandate under Security Council resolution 1701 (2006), and (d) assistance to local municipalities in the preparation of feasibility studies for donor-funded projects to enhance external funding opportunities and to promote cooperation with external donors, through which the relevant capacities of municipal administrative staff on project formulation and implementation would be increased.

11. UNIFIL may be required to play a central role in Ghajar and, on this basis, the 2009/10 budget proposal includes a provision for consultancy services for two police officers for six months each. The extent to which UNIFIL may be involved remains undecided. However, in the area of support, it is expected that any repair and maintenance projects will be of a minor nature and will be absorbed into the current proposal. Facilitating the withdrawal of Israeli Defense Forces from Ghajar is an important provision of Security Council resolution 1701 (2006) and UNIFIL has to accomplish this at the earliest.

12. UNIFIL would continue to facilitate and lead the tripartite mechanism with representatives from the Lebanese Armed Forces and the Israeli Defense Forces. Following the withdrawal of the Israeli Defense Forces from Lebanese territory, with the exception of northern Ghajar, the forum will continue to serve as a mechanism for the parties to discuss operational and security matters on a regular basis. UNIFIL will continue to use this forum to increase the level of confidence and trust between the Lebanese Armed Forces and the Israeli Defense Forces, to reach security agreements and to prevent any outbreak of hostilities.

13. UNIFIL will continue to seek the establishment of an office in Tel Aviv, as agreed by the Government of Israel. The main focus of the office would be on liaison functions at the strategic (headquarters) level with the Israeli Defense Forces and other Israeli Government authorities. UNIFIL places importance on the role of the office, which would significantly enhance the current level of liaison and would include a strategic-level dialogue with the Israeli Defense Forces and other Israeli authorities.

14. The relations between the local population in southern Lebanon and UNIFIL troops will continue to be of critical importance in the implementation of the mandate. In this regard, UNIFIL specialized civilian and military personnel would continue to build confidence with the local population through the provision of humanitarian and development-related assistance, as well as support to contingents in reaching the local population so as to foster a better understanding by the public of the mandate and activities of the Force through the use of a variety of media tools.

15. In response to a highly volatile environment in which an assessed permanent terrorist threat against UNIFIL personnel and property exists, the Force will continue to mitigate risks to personnel and property and to focus its capabilities on the Blue Line and on the Litani River in order to further strengthen security control of the area. In this connection, UNIFIL, following a security risk assessment, has identified a new and fully secure assembly area in Tyre that will be dedicated to United Nations staff members. Regarding security planning, emergency procedures for the use of the new assembly area (for international staff) continue to be

developed, while a review of the national staff relocation plan, in cooperation with UNIFIL military elements, forms a key element of the most recent security plan update. With the concurrence of the UNIFIL military, United Nations positions to be utilized as coordination centres for relocation (national staff) have been identified, requiring some logistical support from the Mission Support Division. In addition, UNIFIL will increase its briefings to international and national staff and their dependants in order to raise the level of awareness with regard to personal security measures and the current emergency procedures. A new security database for national staff will be finalized, which will include the global positioning system plotting of each residence.

16. The further expansion of the existing Force headquarters was not originally envisaged during the initial expansion of UNIFIL in the 2006/07 period. However, the results of a recent security assessment on the situation of United Nations personnel and property, which are concentrated in one small area, have led to the decision to expand the headquarters over a larger area. Accordingly, the 2009/10 budget includes provisions for the planned expansion of the existing headquarters in Naqoura during the 2009/10 period, using the 1.2 million m^2 of land southeast of the existing headquarters that has been provided by the host Government. The related cost estimate of $9.8 million will provide for the implementation of 16 major engineering projects, including the construction of concrete water tanks, solid ablution units, warehouses and workshops for generators, transport and supplies, a fire brigade hangar, storage facilities for transport and engineering, office premises for the Joint Operations Centre/Security Operations Centre and the situation centre, and construction of minor roadways and pathways.

17. The leadership/management skills of senior staff will be strengthened in order to enhance the management of UNIFIL resources. Staff will also be encouraged to utilize more self-paced, distance and e-learning opportunities so as to increase the learning base of the Force and to support the maximum use of advances in information technology for learning. The Force has recognized the importance of integrating risk management strategies and practices into its management culture, and will encourage staff participation in related training opportunities. Enhancing technical and substantive skills of staff through both external and internal training will continue to be a priority.

18. As part of the Organization's overall risk management, UNIFIL will continue to develop and refine its business continuity planning to reduce operational risk and to enhance crisis management and disaster recovery planning. To this end, a parallel administration has been organized for immediate operation in Cyprus in the event of an evacuation and plans have been drafted on the security of personnel, intellectual property and equipment.

19. UNIFIL will undertake the development of tools for the objective measurement of the performance of mission support as a whole, of sections within the Mission Support Division and individual staff members, through client outreach and feedback, performance benchmarks, clear delineation of responsibility for work processes and compliance with recommendations made by legislative and oversight bodies.

20. With the projected repatriation in February 2009 of one contingent that operated the level-II hospital, UNIFIL will focus on upgrading the level-I+ facility in Naqoura to a level-II facility. It has been determined that this can be achieved by supplementing the existing capacity of the Naqoura facility with only four

specialties (ophthalmology, gynaecology, otolaryngology and radiology) and the required equipment, including an operating theatre. It is anticipated that the consolidation of medical support in the western sector in one facility will yield not only cost-effective benefits but also operational benefits, as the cases can be monitored more closely by the Chief Medical Officer, resulting in a projected decrease by 10 per cent of the number of referrals to commercial level-III/level-IV facilities outside the area of operations.

21. UNIFIL also intends to streamline support to remote field locations through the establishment of mobile support teams, which would ensure a more timely and specialized response without the need to maintain a permanent presence at any field location. At present, a number of sections in the Mission Support Division maintain a continuing presence in the sectors through the deployment of a small number of personnel for only a limited number of support functions. The establishment of mobile support teams would make possible the provision of the full scope of support functions and result in efficiency gains arising from a decrease in within-mission travel costs.

22. UNIFIL will reinforce its logistical capabilities under the mission evacuation plan to enhance its response to a crisis similar to the crisis in Lebanon in the summer of 2006. One initiative that is envisaged is the temporary relocation of national staff and their dependants living in the area of operations to UNIFIL military positions, where they will be provided with food/water, shelter, medical treatment and security. This arrangement would ensure a more timely, credible and cost-effective response in ensuring the safety and welfare of national staff and their dependants. Another initiative to be explored is the option of using the capabilities of the Maritime Task Force for the conduct of a full evacuation of international staff and their dependants, in lieu of reliance on more costly commercial flights.

23. The proposed 2009/10 budget of $646.6 million reflects a decrease of $4.2 million (equivalent to 0.6 per cent) compared with the approved budget of $650.8 million for the 2008/09 period. The decrease is primarily attributable to (a) reduced requirements under military contingents, owing to the application of a delayed deployment factor of 12 per cent, compared with 8 per cent in 2008/09, (b) reduced requirements under ground transportation resulting from the acquisition of fewer replacement vehicles, and (c) reduced requirements under communications, owing to the acquisition of fewer items of equipment. The decrease is offset in part by (a) additional requirements under facilities and infrastructure, resulting from an increase in construction services related to the expansion of Force headquarters, increased requirements for reimbursements to troop-contributing Governments for self-sustainment and the acquisition of additional generators related to the expansion of Force headquarters, (b) additional requirements under international staff, based on the application of average salary and related costs derived from the 2007/08 period, and (c) additional requirements under national staff, resulting from the revision of the national salary scales effective 1 September 2008.

24. Pursuant to General Assembly resolution 63/250, the proposed budget also reflects the conversion to the Field Service category of 17 international General Service posts approved for 2008/09 without change in functions.

C. Regional mission cooperation

25. UNIFIL will continue to be the designated regional hub for the Conduct and Discipline Team, which will cover the Force, the United Nations Disengagement Observer Force (UNDOF), the United Nations Truce Supervision Organization (UNTSO), the Office of the United Nations Special Coordinator for the Middle East Peace Process (UNSCO), the United Nations Peacekeeping Force in Cyprus (UNFICYP), the United Nations International Independent Investigation Commission (IIIC) and the United Nations Logistics Base at Brindisi, Italy.

26. UNIFIL will continue to maintain close cooperation with other United Nations peacekeeping operations in the region, including UNFICYP, on medical evacuations and other logistics issues, and UNTSO, on the provision of support for infrastructure, office accommodation, communications and information technology equipment and its services and maintenance, medical support, fuel and spare parts for vehicles, emergency rations and water and security to the Observer Group Lebanon.

27. In addition, UNIFIL will continue to maintain close cooperation with the Economic and Social Commission for Western Asia (ESCWA) on the sharing of regional information on economic and social development, such as cost-of-living surveys, and use of its training facilities, and with IIIC, on the provision of procurement support. The Force will also maintain close cooperation with the Office of the United Nations Special Coordinator for Lebanon, which coordinates the work of all United Nations agencies in Lebanon, and provide an interface with the Government of Lebanon on political aspects relevant to Security Council resolution 1701 (2006) and other issues and UNIFIL, while collaborating with all concerned parties to mitigate political tensions within Lebanon and along the Blue Line. The Force will provide various administrative services and logistical and technical support to the Office, when UNIFIL resources are available.

28. The Security Information Operations Centre of the United Nations Development Programme in Beirut will continue to provide security information for all United Nations staff operating and/or living in Lebanon, north of the Litani River, and will be responsible for security clearances of UNIFIL staff travelling to Beirut. In case of an emergency, the designated official (United Nations Special Coordinator for Lebanon) would ensure the evacuation of UNIFIL staff in Beirut and the head of ESCWA would provide administrative support for the evacuation. UNIFIL will have a Field Security Adviser in Beirut who will be in constant contact with the North Litani River Chief Security Adviser and who will represent the UNIFIL Chief Security Officer at the Security Management Team and Security Cell meetings. UNIFIL will provide security support and clearance and evacuation arrangements to staff of United Nations agencies operating within its area of operations. Staff of United Nations agencies based in and operating in the UNIFIL area of operations will be fully integrated into the South Litani River Security Plan and will have full access to the UNIFIL emergency communications system and security services. A UNIFIL Military Liaison Officer and UNIFIL Security Officer will conduct weekly meetings with United Nations agencies operating in southern Lebanon in order to ensure full coordination and cooperation on security issues.

29. UNIFIL will continue to cooperate with and lead regional training efforts through the provision of training support to other peacekeeping missions and United Nations entities within the region. The support to be provided will include the identification of training needs, the development of training proposals, the

implementation of training including development, delivery and facilitation of training sessions and the evaluation of training activities.

D. Results-based budgeting

Executive direction and management

30. Overall Force direction and management are to be provided by the immediate Office of the Force Commander.

Table 1
Human resources: executive direction and management

	International staff										
	USG-ASG	*D-2-D-1*	*P-5-P-4*	*P-3-P-1*	*Field Service*[a]	*General Service*[a]	*Security Service*	***Subtotal***	*National staff*[b]	*United Nations Volunteers*	***Total***
Office of the Force Commander											
Approved posts 2008/09	1	1	1	—	—	1	—	**4**	—	—	**4**
Proposed posts 2009/10	1	1	1	—	1	—	—	**4**	2	—	**6**
Net change	—	—	—	—	**1**	**(1)**	—	—	**2**	—	**2**
Legal Affairs Section											
Approved posts 2008/09	—	—	1	1	—	1	—	**3**	1	—	**4**
Proposed posts 2009/10	—	—	1	1	1	—	—	**3**	1	—	**4**
Net change	—	—	—	—	**1**	**(1)**	—	—	—	—	—
Joint Military Analysis Cell											
Approved posts 2008/09	—	—	3	2	2	—	—	**7**	—	—	7
Proposed posts 2009/10	—	—	3	2	2	—	—	**7**	—	—	7
Net change	—	—	—	—	—	—	—	—	—	—	—
Tel Aviv Office											
Approved 2008/09	—	—	2	—	2	—	—	**4**	—	—	**4**
Proposed 2009/10	—	—	2	—	2	—	—	**4**	—	—	**4**
Net change	—	—	—	—	—	—	—	—	—	—	—
Strategic Military Cell											
Approved temporary positions[c] 2008/09	—	1	—	—	—	1	—	**2**	—	—	**2**
Proposed temporary positions[c] 2009/10	—	1	—	—	—	1	—	**2**	—	—	**2**
Net change	—	—	—	—	—	—	—	—	—	—	—
Total											
Approved 2008/09	1	1	7	3	4	2	—	**18**	1	—	**19**
Proposed 2009/10	1	1	7	3	6	—	—	**18**	3	—	**21**
Net change	—	—	—	—	**2**	**(2)**	—	—	**2**	—	**2**

	International staff										
	USG-ASG	D-2-D-1	P-5-P-4	P-3-P-1	Field Service[a]	General Service[a]	Security Service	Subtotal	National staff[b]	United Nations Volunteers	Total
Approved temporary positions[c] 2008/09	—	1	—	—	—	1	—	2	—	—	2
Proposed temporary positions[c] 2009/10	—	1	—	—	—	1	—	2	—	—	2
Net change	—	—	—	—	—	—	—	—	—	—	—
Total											
Approved 2008/09	1	2	7	3	4	3	—	20	1	—	21
Proposed 2009/10	1	2	7	3	6	1	—	20	3	—	23
Net change	—	—	—	—	2	(2)	—	—	2	—	2

[a] Pursuant to General Assembly resolution 63/250, reflects the conversion to the Field Service category of approved international General Service posts, without change in functions.

[b] Includes National Officers and national General Service staff.

[c] Funded under general temporary assistance.

Office of the Force Commander

National staff: Redeployment of 2 posts

31. It is proposed that two existing posts of Language Assistant (national General Service) be redeployed from the Sector Administrative Offices to support the Force Commander in the conduct of his functions with local and national Lebanese authorities who are not proficient in the working languages of the Force. The responsibilities of the Language Assistants would include the translation of the Force Commander's speeches at official functions and written correspondence from English or French into Arabic, which is currently provided from a pool of Language Assistants in the Mission Support Division. Taking into account the increased volume and complexity of the issues that would require accurate translation, it is proposed to redeploy two posts from the Mission Support Division to provide dedicated language support to the Office of the Force Commander.

Component 1: operations

32. Under the operations component, UNIFIL, in close cooperation and coordination with the Lebanese Armed Forces, will continue to build on its initial achievements to further stabilize the area of operations south of the Litani River. Operational activities will include prevention of the resumption of hostilities and of violations of the Blue Line, and the maintenance of the area between the Blue Line and the Litani River free of unauthorized armed personnel, assets and weapons. The Force will continue to intensify and strengthen its cooperation and coordination on operational activities with the Lebanese Armed Forces, and will maintain a high level of liaison and coordination with the Lebanese Armed Forces and the Israeli Defense Forces, with a view to maintaining the cessation of hostilities and preventing violations of Security Council resolution 1701 (2006). The Maritime Task Force will continue to patrol and conduct maritime interdiction operations in the area of maritime operations. In addition, the Force will continue to encourage the restoration of State authority through confidence-building and support for and capacity-building assistance to local authorities.

Expected accomplishments	*Indicators of achievement*
1.1 Stable and secure environment in southern Lebanon	1.1.1 Absence of air, sea or ground incursions or firing incidents across the Blue Line
	1.1.2 Lebanese Armed Forces deployed throughout the entire area south of the Litani River, including the part of the town of Ghajar north of the Blue Line
	1.1.3 Area between the Blue Line and the Litani River is free of any armed personnel, assets and weapons, except for those of the Lebanese Armed Forces and of UNIFIL
	1.1.4 Participation by both parties in tripartite meetings and maintenance of liaison and coordination arrangements

Outputs

- 1,270,200 mobile patrol person days, to include reserve capacity and a quick reaction capacity for the reconnaissance of areas of tension, reconnoitring and intervention, if required, in crisis situations to support other units (10 troops x 348 patrols x 365 days)
- 545,310 manned observation post person days (7 troops per post x 3 shifts per post x 63 permanent posts x 365 days and 3 troops per post x 1 12-hour shift x 57 random/temporary posts x 365 days)
- 500 air patrol hours along the Blue Line
- 2,080 flight hours for investigation of incidents and operational movements for transport of combat assets, reconnaissance, command and control function, liaison and training
- 2,190 naval vessel patrol days to monitor the maritime border of Lebanon, including joint operational exercises with the Lebanese Armed Forces (average of 3 frigates x 365 days; average of 3 patrol vessels x 365 days)
- 2,200 flight hours for maritime interdiction patrols and operational activities inside the area of maritime operations
- Coordinated patrolling activities with the Lebanese Armed Forces, including 8 counter rocket-launching operations, 4 foot patrols and 10 co-located checkpoints per day
- Conduct of 15 joint exercises, seminars, lectures and training courses with the Lebanese Armed Forces to improve the tactical and operational capabilities of the Lebanese Armed Forces and to improve the coordination between UNIFIL and the Lebanese Armed Forces at operational and tactical levels for enhanced effectiveness of combined operations
- 3 reports of the Secretary-General to the Security Council
- Daily and weekly liaison, communication and exchange of information with both parties on issues requiring immediate attention relating to the implementation of Security Council resolution 1701 (2006)
- Chairing of and provision of secretariat support services for tripartite meetings on a monthly basis and as required
- Provision of secretariat support for the tripartite subcommittee meetings, including the Blue Line subcommittee, as required, and support on a weekly basis for field work to visibly mark the Blue Line on the ground

- Conduct, on an as-required basis, of strategic dialogue conferences and other high-level meetings with Lebanese Armed Forces officials on the strengthening of UNIFIL-Lebanese Armed Forces liaison, coordinated operational activities, adjustments and training to enhance effectiveness
- Weekly liaison and coordination meetings with local authorities/community representatives and civic associations/partner organizations on assistance in conflict resolution and confidence-building initiatives, and on progress towards stability at the local level
- Meetings, on a weekly basis and as required, with Lebanese and Israeli authorities, diplomatic representatives and United Nations offices, agencies, funds and programmes on improving the understanding of the mandate, role and activities of UNIFIL
- Briefings to Member States, troop-contributing countries and donor countries, as required, on UNIFIL operational issues
- Daily monitoring and analyses of the media coverage on UNIFIL, daily morning and afternoon news round-ups, daily and weekly summaries of Arabic media, and weekly analyses of media trends pertaining to UNIFIL
- Daily provision of information on UNIFIL to the international and local media, facilitation of access and organization of media visits to UNIFIL activities and operations, regular press releases updating the media on UNIFIL activities, regular photo coverage of UNIFIL activities/events and weekly updates of the UNIFIL website in English and Arabic
- Production and distribution of audio and video materials for television and radio, regular broadcast radio features, as well as a bimonthly magazine in English and Arabic on the activities of UNIFIL and United Nations agencies throughout the area of operations (6 times per year, 120,000 copies)
- Coordination of de-mining and explosive remnants of war clearance operations with the United Nations Mine Action Coordination Centre in southern Lebanon and with Lebanese authorities, including the Lebanon Mine Action Centre, on mine and cluster-munitions clearance activities
- Clearance of mines/unexploded ordnance and the release of 1.6 million m^2 of land back to the local civilian population

Expected accomplishments	*Indicators of achievement*
1.2 Normalization of the authority of the Government of Lebanon in southern Lebanon	1.2.1 Functioning of all local government structures at the municipal, district and regional levels, as well as civic and religious institutions in southern Lebanon
	1.2.2 Increased role of the Government of Lebanon in the provision of public services, including water, sanitation, electricity, health services and education in all communities in southern Lebanon
	1.2.3 Prevention, by the Lebanese Armed Forces, of the presence of any authority outside the authority of the Lebanese State
	1.2.4 Strengthening of the civilian-military coordination capacity of the Lebanese Armed Forces

Outputs

- Monthly meetings with Lebanese authorities at the central level, including service-related ministries, on the extension of the authority of the Lebanese Government in southern Lebanon
- Daily contacts with local authorities and community leaders on confidence-building measures and on the resolution of potential issues of conflict between UNIFIL and the local population
- Advice to local authorities on the development of project proposals for funding by external donors and project management and other initiatives to contribute to the enhancement of their standing among communities in southern Lebanon and advice on the extension of the Government's authority and discharge of local governance responsibilities
- Coordination with and provision of assistance to the Lebanese Armed Forces to enhance civilian-military coordination through joint training sessions and workshops on project management, negotiation and mediation skills, conflict resolution and confidence-building
- Advice to and coordination with the Office of the United Nations Special Coordinator for the Middle East Peace Process, other United Nations offices, agencies, funds and programmes, diplomatic representatives and non-governmental organizations on the overall situation in southern Lebanon, in particular the security situation in the UNIFIL area of operations
- Weekly meetings with United Nations agencies and international and local non-governmental organizations operating in southern Lebanon on the coordination of recovery, development and humanitarian assistance in the area of operations
- Implementation of 25 quick-impact projects in support of community social needs, access to basic services, capacity-building and conflict management in southern Lebanon
- Monthly consultations with local authorities, local women's groups and United Nations agencies and other international partners on gender issues
- Public information campaigns (through leaflets published every quarter in quantities of up to 25,000, the maintenance of an updated website, the issuance of regular press releases, and a bimonthly magazine, regular broadcast radio features, weekly and monthly video productions for national and international television broadcast and website streaming) on the mandate and activities of UNIFIL
- Organization of community outreach activities among the local population to promote confidence-building and conflict resolution

External factors

All parties will remain committed to the implementation of Security Council resolution 1701 (2006). UNIFIL will be accorded full freedom of movement by all parties. Provision of necessary technical strike data on the number, location and type of cluster munitions fired during the 2006 conflict

Table 2
Human resources: component 1, operations

Category	*Total*
I. Military contingents	
Approved 2008/09	**15 000**
Proposed 2009/10	**15 000**
Net change	—

	International staff										
II. Civilian staff	*USG-ASG*	*D-2-D-1*	*P-5-P-4*	*P-3-P-1*	*Field Service*[a]	*General Service*[a]	*Security Service*	***Subtotal***	*National staff*[b]	*United Nations Volunteers*	***Total***
Political Affairs Division (former Office of Political and Civil Affairs)											
Approved posts 2008/09	—	1	5	2	1	1	—	**10**	3	—	**13**
Proposed posts 2009/10	—	1	5	2	2	—	—	**10**	3	—	**13**
Net change	—	—	—	—	**1**	**(1)**	—	—	—	—	—
Civil Affairs Office											
Approved posts 2008/09	—	1	4	4	1	—	—	**10**	5	—	**15**
Proposed posts 2009/10	—	1	4	4	1	—	—	**10**	7	—	**17**
Net change	—	—	—	—	—	—	—	—	**2**	—	**2**
Beirut Office											
Approved 2008/09	—	1	4	—	1	—	—	**6**	4	—	**10**
Proposed 2009/10	—	1	4	—	1	—	—	**6**	4	—	**10**
Net change	—	—	—	—	—	—	—	—	—	—	—
Public Information Section (former Public Information Office)											
Approved posts 2008/09	—	—	3	3	3	—	—	**9**	9	—	**18**
Proposed posts 2009/10	—	—	2	3	3	—	—	**8**	10	—	**18**
Net change	—	—	**(1)**	—	—	—	—	**(1)**	**1**	—	—
Tripartite Coordination Unit (former Tripartite Coordination Office)											
Approved posts 2008/09	—	—	1	—	—	1	—	**2**	3	—	**5**
Proposed posts 2009/10	—	—	1	—	1	—	—	**2**	3	—	**5**
Net change	—	—	—	—	**1**	**(1)**	—	—	—	—	—
Subtotal, civilian staff											
Approved 2008/09	—	3	17	9	6	2	—	**37**	24	—	**61**
Proposed 2009/10	—	3	16	9	8	—	—	**36**	27	—	**63**
Net change	—	—	**(1)**	—	**2**	**(2)**	—	**(1)**	**3**	—	**2**
Total (I-II)											
Approved 2008/09											**15 061**
Proposed 2009/10											**15 063**
Net change											**2**

[a] Pursuant to General Assembly resolution 63/250, reflects the conversion to the Field Service category of approved international General Service posts, without change in functions.
[b] Includes National Officers and national General Service staff.

Civil Affairs Office

National staff: Increase of 2 posts

33. It is proposed that two posts of Civil Affairs Officer (National Officer) be established to strengthen the capacity of the Office in responding to evolving requirements for civil affairs activities. Actual experience over the past two years has shown the significant contribution of Civil Affairs Officers at the National Officer level, in particular in the strengthening of the vital links between UNIFIL and local communities, in confidence-building activities and in localized conflict prevention and management. To support the projected increase in civil affairs activities, the establishment of two additional posts for Civil Affairs Officers at the National Officer level would be required to augment the current civil affairs presence in the two sectors and to strengthen the capacity of the Office to undertake new initiatives and activities, including (a) the enhancement of the civilian-military coordination capacity of the Lebanese Armed Forces that would require ongoing engagement with the Lebanese Armed Forces, (b) the provision of training in the management, mediation and resolution of localized conflict within the area of operations in order to enhance the Force's capacity to design local community projects while increasing the capacity of the Lebanese Armed Forces to deliver conflict sensitivity training, (c) the development and implementation of a series of externally funded surveys on the assessment of the perception of UNIFIL by local communities and of the understanding of local communities of the mandate of the Force under Security Council resolution 1701 (2006), and (d) assistance to local municipalities in the preparation of feasibility studies and donor-funded projects to enhance their opportunities in obtaining external funding, to promote cooperation with external donors and to increase the capacity of municipal administrative staff.

Public Information Section

International staff: Decrease of 1 post

National staff: Increase of 1 post

34. It is proposed that one post of Public Information Officer (P-4) be abolished and that one post of Public Information Officer (National Officer) be established. The current staffing structure of the Public Information Section includes two posts of Public Information Officer at the P-4 level. Following a review of the UNIFIL communications strategy, it has been determined that the main priorities would be direct communications and outreach to the local population in order to enhance its support for the Force and greater collaboration with communications counterparts in the Lebanese Armed Forces in order to strengthen the Force's strategic partnership with the Lebanese Armed Forces. The success of the strategy would be contingent on the ability of the Force to ensure a strong national perspective in public information initiatives, in particular in the form and content of various types of public information outputs. In addition, the staffing of the Section would benefit from the strengthening of its national perspective, taking into account that the Section provides guidance to the Military Community Outreach Unit on concerns and issues related to the local population, based on the priorities of the Force and the political situation in Lebanon. Furthermore, the establishment of a post of Public Information Officer with a national incumbent would be beneficial to the Section's activities on media relations, radio and video production, as well as printed

publications, including the UNIFIL magazine that is published primarily in the Arabic language for local dissemination.

Component 2: support

35. During the budget period, the support component would provide effective and efficient logistical, administrative and security services in support of the implementation of the mandate of the Force through the delivery of related outputs and the introduction of service improvements, as well as the realization of efficiency gains. Support would be provided to the authorized strength of 15,000 military contingents and to the civilian staffing of 412 international staff, including temporary positions, and 833 national staff. The range of support would comprise all support services, including the implementation of conduct and discipline and HIV/AIDS programmes, budget and finance, personnel administration, training, contract management, health care, maintenance and construction of office and accommodation facilities, information technology and communications, air and naval operations, surface transport operations, and supply and re-supply operations, as well as the provision of security services Force-wide. The Force will be undertaking its "green initiative", which would include the use of solar sites to make available improvements in the provision of renewable and sustainable power sources and the use of electric vehicles within the Force headquarters.

Expected accomplishments	*Indicators of achievement*
2.1 Increased efficiency and effectiveness of logistical, administrative and security support to the Force	2.1.1 Reduction in the number of servers by 12 per cent using virtualization technology (2007/08: 86; 2008/09: 68; 2009/10: 60)
	2.1.2 Upgrading of the level-I+ facility at the Force headquarters in Naquora to a level-II facility by June 2010

Outputs

Service improvements

- Implementation of virtualization technology
- Enhanced medical services at Force headquarters

Military, police and civilian personnel

- Emplacement, rotation and repatriation of an average strength of 15,000 military contingent personnel
- Verification, monitoring and inspection of contingent-owned equipment and self-sustainment for an average strength of 15,000 military personnel
- Storage and supply of 10,076 tons of rations and 1,161,500 litres of bottled water for military contingent personnel in 23 locations
- Administration of an average of 1,245 civilian staff, comprising 412 international staff, including temporary positions, and 833 national staff
- Implementation of a conduct and discipline programme for all military, police and civilian personnel, including training, prevention, monitoring and recommendations on remedial actions where misconduct has occurred

Facilities and infrastructure

- Maintenance and repair of 63 military positions comprising 1,871 prefabricated buildings and 163 hard wall buildings
- Maintenance and renovation of storage facilities for fuel and lubricants for generators, vehicles, air and naval transportation, in 100 locations
- Sanitation services for all premises, including sewage and garbage collection and disposal
- Maintenance and operation of 20 United Nations-owned sewage treatment plants in 13 locations
- Operation and maintenance of 10 United Nations-owned water purification plants in 8 locations
- Operation and maintenance of 13 United Nations-owned water wells in 12 locations for general use by an average of 15,000 troops
- Operation, maintenance and repair of 243 United Nations-owned generators
- Storage and supply of 17.9 million litres of petrol, oil and lubricants for generators
- Maintenance and renovation of 100 km of access roads
- Repair and maintenance of 22 helicopter landing sites in 21 locations

Ground transportation

- Operation and maintenance of 917 United Nations-owned vehicles, including 99 armoured vehicles (52 civilian pattern and 47 military pattern) in 9 workshops in 7 locations
- Supply of 10.5 million litres of petrol, oil and lubricants for ground transportation
- Operation of a daily shuttle service (5 days a week) for an average of 36 United Nations personnel per day from a designated location near their places of residence to the Force headquarters
- Provision of training and assessment programmes or sessions for 800 drivers/operators for all types of vehicles

Air transportation

- Operation and maintenance of 9 rotary-wing aircraft, comprising 8 military aircraft and 1 commercial aircraft, in 2 locations
- Supply of 1.3 million litres of aviation fuel

Communications

- Support and maintenance of a satellite network consisting of 2 Earth station hubs for voice, fax, video and data communications
- Support and maintenance of 7 very small aperture terminal (VSAT) systems, 35 telephone exchanges and 164 microwave links
- Support and maintenance of 3,581 very-high frequency (VHF) equipment, 86 high frequency (HF) equipment and 49 ultra-high frequency (UHF) rural telephone links

Information technology

- Support and maintenance of 60 servers, 1,739 desktop computers, 355 laptop computers, 455 desktop and network printers and 121 digital senders in 29 locations

- Support and maintenance of 30 local area networks (LAN) and wide area networks (WAN) for 1,600 users in 29 locations

Medical

- Operation and maintenance of 21 level-I clinics, 2 level-II clinics and 1 level-I+ medical facility for all UNIFIL personnel, staff of other United Nations offices and the local civilian population in emergency cases, as well as over 40 emergency and first-aid stations for UNIFIL troops
- Maintenance of Force-wide land and air evacuation arrangements for all UNIFIL locations, including arrangements for evacuation to 2 external hospitals (level-III and level-IV)
- Operation and maintenance of HIV voluntary confidential counselling and testing facilities for all Force personnel
- HIV sensitization programme for all Force personnel, including peer education
- Oversight and coordination of health and safety policies and training programmes for prevention of injuries and illness

Security

- Provision of round-the-clock security services for all mission areas, including the maintenance of the emergency communications system
- Implementation of a mission-wide site security risk assessment, and review and update of the security plan
- Conduct of 52 information sessions on security awareness and contingency plans for all UNIFIL staff, including induction security training for all new staff
- Provision of 24-hour close protection to senior UNIFIL staff and visiting high-level officials

External factors

Freedom of movement is provided by the Government of Lebanon. Vendors/contractors/suppliers will be able to deliver goods and services, as contracted

Table 3
Human resources: component 2, support

Category	*International staff*										*Total*
Civilian staff	*USG-ASG*	*D-2-D-1*	*P-5-P-4*	*P-3-P-1*	*Field Service*[a]	*General Service*[a]	*Security Service*	**Subtotal**	*National staff*[b]	*United Nations Volunteers*	**Total**
Conduct and Discipline Team											
Approved posts 2008/09	—	—	2	—	—	—	—	**2**	2	—	**4**
Proposed posts 2009/10	—	—	2	—	—	—	—	**2**	2	—	**4**
Net change	—	—	—	—	—	—	—	—	—	—	—
Approved temporary positions[c] 2008/09	—	—	1	1	1	—	—	**3**	—	—	**3**
Proposed temporary positions[c] 2009/10	—	—	1	1	1	—	—	**3**	—	—	**3**
Net change	—	—	—	—	—	—	—	—	—	—	—
Subtotal											
Approved 2008/09	—	—	3	1	1	—	—	**5**	2	—	**7**
Proposed 2009/10	—	—	3	1	1	—	—	**5**	2	—	**7**
Net change	—	—	—	—	—	—	—	—	—	—	—
Security Section											
Approved posts 2008/09	—	—	2	1	45	—	—	**48**	20	—	**68**
Proposed posts 2009/10	—	—	2	2	44	—	—	**48**	20	—	**68**
Net change	—	—	—	**1**	**(1)**	—	—	—	—	—	—
Mission Support Division Office of the Director											
Approved posts 2008/09	—	1	4	1	5	1	—	**12**	336	—	**348**
Proposed posts 2009/10	—	1	4	1	6	—	—	**12**	301	—	**313**
Net change	—	—	—	—	**1**	**(1)**	—	—	(35)	—	**(35)**
Administrative Services											
Approved posts 2008/09	—	1	11	13	33	12	—	**70**	108	—	**178**
Proposed posts 2009/10	—	1	11	13	45	—	—	**70**	122	—	**192**
Net change	—	—	—	—	**12**	**(12)**	—	—	14	—	**14**
Integrated Support Services											
Approved posts 2008/09	—	1	23	24	173	—	—	**221**	351	—	**572**
Proposed posts 2009/10	—	1	23	24	173	—	—	**221**	358	—	**579**
Net change	—	—	—	—	—	—	—	—	7	—	**7**

Category											**Total**
	International staff										
Civilian staff	*USG-ASG*	*D-2-D-1*	*P-5-P-4*	*P-3-P-1*	*Field Service*[a]	*General Service*[a]	*Security Service*	**Subtotal**	*National staff*[b]	*United Nations Volunteers*	**Total**
Subtotal, support											
Approved posts 2008/09	—	3	42	39	256	13	—	**353**	817	—	**1 170**
Proposed posts 2009/10	—	3	42	40	268	—	—	**353**	803	—	**1 156**
Net change	—	—	—	**1**	**12**	**(13)**	—	—	(14)	—	**(14)**
Approved temporary positions[c] 2008/09	—	—	1	1	1	—	—	**3**	—	—	**3**
Proposed temporary positions[c] 2009/10	—	—	1	1	1	—	—	**3**	—	—	**3**
Net change	—	—	—	—	—	—	—	—	—	—	—
Total											
Approved 2008/09											**1 173**
Proposed 2009/10											**1 159**
Net change											**(14)**

[a] Pursuant to General Assembly resolution 63/250, reflects the conversion to the Field Service category of approved international General Service posts, without change in functions.
[b] Includes National Officers and national General Service staff.
[c] Funded under general temporary assistance.

Security Section

International staff: No net change

36. It is proposed that one post of Security Officer (Field Service) be abolished and one post of Security Officer (P-3) be established to head the Security Information and Coordination Unit. Based on the review of the staffing structure of the Section, it has been determined that the Unit would require the supervision by an incumbent in the Professional category with the requisite qualifications and experience in risk analysis and risk assessment, taking into account a revision in the functional requirements of the Section. With the establishment of the Joint Mission Analysis Centre, which is headed by a Chief at the P-5 level, it is considered essential that the supervisor of the Unit be an incumbent with a comparable rank so as to undertake regular liaison functions with the Chief of the Centre and oversee the information provided by the Unit to the Centre. In addition, the incumbent would be responsible for extensive coordination with several units and sections within UNIFIL in connection with the projected implementation of the i2 analytical software, which is an information technology tool for the identification of security threats that would be used to advise the designated official on levels of threat in the mission area. The incumbent of the post would report directly to the Chief of the Security Section and would supervise four international staff and five national staff.

Mission Support Division

Office of the Director

National staff: Net decrease of 35 posts (abolishment of 34 posts, redeployment of 2 posts and establishment of 1 post)

37. On the basis of the review of language support requirements for military contingents, it has been determined that a total of 35 Language Assistant posts (national General Service) would no longer be required in the Sector Administrative Offices. Of this total, 33 posts are proposed for abolishment, while 2 posts are proposed for redeployment to the Office of the Force Commander, as explained in paragraph 31 above. In addition, it is proposed that one vacant national General Service post be abolished, as it has been determined that the functions of the post can be absorbed by other national staff in the Sector Administrative Offices.

38. In the Budget Section, it is proposed that a post of Budget Assistant (national General Service) be established to strengthen the capacity of the Section in supporting the budgetary requirements of the Force. Based on the review of the staffing of the Section, it has been determined that the existing support by two Budget Assistants (national General Service) is not sufficient to meet the volume, complexity and time-bound activities related to the formulation of the Force's performance and budget submissions and to the administration of its financial resources. The incumbent would utilize information from information technology systems, including the Field Personnel Management System, the Sun System, IMIS, the funds monitoring tool, Mercury and Galileo, to generate financial reports for the review of senior management. The incumbent would also provide support in the analysis of budgetary requirements submitted by the Force's cost centres, assist in the preparation and formulation of draft cost estimates and performance reports, respond to inquiries on budgetary issues and follow up on actions and pending responses from cost centres, maintain records on requisitions and purchase orders, and generate financial reports on a monthly basis for dissemination to the chiefs of sections.

Administrative Services

National staff: Increase of 14 posts

39. It is proposed that 14 posts of Facilities Management Assistant (national General Service) be established to strengthen the capacity of the General Services Section in connection with the expansion of residential and office premises, workshops and aviation facilities at Force headquarters. From the 2007/08 and 2008/09 periods, UNIFIL has been undertaking the establishment of additional facilities, including a new heliport, a new 200-person camp and new offices and workshops in the additional land adjacent to the existing Force headquarters in order to alleviate the current congestion and closely confined establishment of existing premises and to increase compliance with Minimum Operating Security Standards. As additional facilities are scheduled for completion during 2008/09, it has been determined that the current staffing structure of the Section will not be able to adequately support the volume of maintenance requirements of the additional facilities. The incumbents of the 14 proposed posts would be responsible for general facilities management functions, including grounds maintenance, garbage collection and disposal, movement of furniture and equipment between offices, maintenance of

road signs and support for the set-up of facilities for "town hall" meetings and formal celebrations.

Integrated Support Services

National staff: Increase of 7 posts

40. In connection with the expansion of Force headquarters, it is proposed that the staffing of the Engineering Services Section be strengthened through the establishment of seven posts (national General Service) to provide the Section with adequate capacity to respond to increased technical support requirements related to the establishment of additional premises in the mission area.

41. Four posts of Electrician/Heating, Ventilation and Air Conditioning (HVAC) Technicians (national General Service) are required in the Facilities Management Unit to supplement the existing staffing of 12 Electricians/HVAC Technicians to support the maintenance of electrical and other related installations in the additional facilities to be established in connection with the expansion of Force headquarters during the 2009/10 period. The incumbents will provide ongoing technical support, in particular on cabling infrastructure and the installation and maintenance of various types of accommodation equipment, such as air conditioners and other electrical appliances and provide standby duties for the projects related to the expansion of Force headquarters, through overlapping shifts with existing staff, for which a 20 to 30 per cent increase in on-site presence or call-outs outside normal working hours is projected for the three phases of the construction projects.

42. In addition, three posts of Engineering Assistant (national General Service) are proposed in the Geographic Information Systems Unit to strengthen the capacity of the Unit to provide support in the collection, compilation and management of geographic information system data and technical requirements related to the visible marking of the Blue Line and the regional mapping project. While based at Force headquarters, the incumbents of the posts would be extensively involved in field activities in the southern boundary of the area of operations along the Blue Line.

Medical Section

International staff: No net change

43. It is proposed that one post of Health and Safety Officer (P-4) be established to make available to the Medical Section the necessary expertise to provide advice, guidance and training on health and safety training programmes. The proposal is based on actual recent experience in the mission area of 153 incidents of injury to military and civilian personnel, some of which were serious enough to warrant notification to Headquarters through a notification of casualty (NOTICAS). It has been determined that the high number of incidents is attributable primarily to poor working practices and an overall lack of education about health and safety matters. Currently, health and safety issues in UNIFIL are dealt with in a fragmented manner, in part by the Medical Officers of the Force and in part by section chiefs as part of their responsibility and commitment to ensure the welfare of their staff. However, these senior personnel possess only limited professional knowledge on health and safety matters. The high number of work-related incidents in UNIFIL will require a more focused, rather than ad hoc, approach to ensuring the health and safety of staff in the course of the performance of their official functions. To this end, a post of

Health and Safety Officer, with the necessary qualifications and relevant experience, would be required to focus on operational aspects of safety in the workplace, in particular in technical functions such as engineering, transport, communications and information technology, where the probability of the occurrence of accidents is considered high and from which potentially serious, including life-threatening, injuries could arise. The functions of the Health and Safety Officer, who would report directly to the Chief Medical Officer, would include the provision of advice on health and safety policy and the coordination of health and safety training programmes for military and civilian personnel in the mission area.

44. It is also proposed that one post of Medical Officer (P-4) be abolished, based on the determination that medical support to UNIFIL personnel can be provided adequately by 2 Medical Officers (P-3), 4 Staff Officers and 21 military medical support personnel deployed at Force headquarters.

II. Financial resources

A. Overall

(Thousands of United States dollars. Budget year is 1 July to 30 June.)

Category	Expenditures (2007/08) (1)	Apportionment (2008/09) (2)	Cost estimates (2009/10) (3)	Variance Amount (4)-(3)=(2)	Variance Percentage (5)=(4)÷(2)
Military and police personnel					
Military observers	—	—	—	—	—
Military contingents	298 188.3	341 337.0	327 967.7	(13 369.3)	(3.9)
United Nations police	—	—	—	—	—
Formed police units	—	—	—	—	—
Subtotal	**298 188.3**	**341 337.0**	**327 967.7**	**(13 369.3)**	**(3.9)**
Civilian personnel					
International staff	50 460.4	55 492.2	61 100.2	5 608.0	10.1
National staff	27 395.6	36 633.9	38 308.3	1 674.4	4.6
United Nations Volunteers	—	—	—	—	—
General temporary assistance	875.2	840.2	1 000.9	160.7	19.1
Subtotal	**78 731.2**	**92 966.3**	**100 409.4**	**7 443.1**	**8.0**
Operational costs					
Government-provided personnel	—	—	—	—	—
Civilian electoral observers	—	—	—	—	—
Consultants	84.3	276.5	309.0	32.5	11.8
Official travel	995.6	1 367.6	1 296.3	(71.3)	(5.2)
Facilities and infrastructure	72 785.9	64 321.9	71 445.8	7 123.9	11.1
Ground transportation	17 074.8	19 404.9	14 924.6	(4 480.3)	(23.1)
Air transportation	8 442.0	7 541.8	8 722.0	1 180.2	15.6
Naval transportation	71 820.0	75 273.8	75 261.2	(12.6)	(0.0)
Communications	18 663.1	23 272.4	20 913.6	(2 358.8)	(10.1)
Information technology	4 829.6	5 131.0	5 617.3	486.3	9.5
Medical	6 637.4	7 665.6	7 608.9	(56.7)	(0.7)
Special equipment	5 248.2	6 004.2	6 607.0	602.8	10.0
Other supplies, services and equipment	7 588.6	5 692.6	4 997.6	(695.0)	(12.2)
Quick-impact projects	500.0	500.0	500.0	—	—
Subtotal	**214 669.5**	**216 452.3**	**218 203.3**	**1 751.0**	**0.8**
Gross requirements	**591 589.0**	**650 755.6**	**646 580.4**	**(4 175.2)**	**(0.6)**
Staff assessment income	9 168.3	11 043.8	11 280.6	236.8	2.1
Net requirements	**582 420.7**	**639 711.8**	**635 299.8**	**(4 412.0)**	**(0.7)**
Voluntary contributions in kind (budgeted)	—	—	—	—	—
Total requirements	**591 589.0**	**650 755.6**	**646 580.4**	**(4 175.2)**	**(0.6)**

B. Non-budgeted contributions

45. The estimated value of non-budgeted contributions for the period from 1 July 2009 to 30 June 2010 is as follows:

(Thousands of United States dollars)

Category	*Estimated value*
Status-of-forces agreement[a]	14 055.2
Total	**14 055.2**

[a] Relates to land and premises provided by the host Government, including UNIFIL House in Beirut, a rear headquarters evacuation centre, UNIFIL headquarters in Naqoura and military positions.

C. Efficiency gains

46. The cost estimates for the period from 1 July 2009 to 30 June 2010 take into account the following efficiency initiatives:

(Thousands of United States dollars)

Category	*Amount*	*Initiative*
Ground transportation	104.0	15 electric utility vehicles for use within Force headquarters at the new expanded location, with lower maintenance costs compared with diesel-fuelled vehicles. The vehicles will provide clean transportation, consume less fuel, release fewer emissions and reduce pollution levels
Official travel	25.0	Establishment of mobile support teams for the provision of a full range of support functions to field locations
Total	**129.0**	

D. Vacancy factors

47. The cost estimates for the period from 1 July 2009 to 30 June 2010 take into account the following vacancy factors:

(Percentage)

Category	*Actual 2007/08*	*Budgeted 2008/09*[a]	*Projected 2009/10*
Military and police personnel			
Military contingents	15	8	12
Civilian personnel			
International staff	26	14	15
National staff			
National Officers	69	15	30
National General Service	30	15	15
Temporary positions[b]			
International staff	43	—	—

[a] Data relate to vacancy factors approved by the General Assembly in its resolution 62/265.
[b] Funded under general temporary assistance.

E. Contingent-owned equipment: major equipment and self-sustainment

48. Requirements for the period from 1 July 2009 to 30 June 2010 are based on standard reimbursement rates for major equipment (wet lease) and self-sustainment in the total amount of $148,523,000, as follows:

(Thousands of United States dollars)

Category	*Estimated amount*
Major equipment	
Military contingents	91 196.6
Subtotal	**91 196.6**
Self-sustainment	
Facilities and infrastructure	33 283.3
Communications	11 251.7
Medical	6 226.8
Special equipment	6 564.6
Subtotal	**57 326.4**
Total	**148 523.0**

Mission factors	*Percentage*	*Effective date*	*Last review date*
A. Applicable to mission area			
Extreme environmental condition factor	0.6	1 July 2008	14 March 2008
Intensified operational condition factor	0.8	1 July 2008	14 March 2008
Hostile action/forced abandonment factor	3.5	1 July 2008	14 March 2008
B. Applicable to home country			
Incremental transportation factor	0.0-3.5		

F. Training

49. The estimated resource requirements for training for the period from 1 July 2009 to 30 June 2010 are as follows:

(Thousands of United States dollars)

Category	*Estimated amount*
Consultants	
Training consultants	—
Official travel	
Official travel, training	541.8
Other supplies, services and equipment	
Training fees, supplies and services	398.2
Total	**940.0**

50. The number of participants planned for the period from 1 July 2009 to 30 June 2010, compared to previous periods, is as follows:

(Number of participants)

	International staff			*National staff*			*Military and police personnel*		
	Actual 2007/08	*Planned 2008/09*	*Proposed 2009/10*	*Actual 2007/08*	*Planned 2008/09*	*Proposed 2009/10*	*Actual 2007/08*	*Planned 2008/09*	*Proposed 2009/10*
Internal	793	306	356	983	349	351	1 031	93	173
External[a]	111	122	87	26	20	30	13	8	10
Total	**904**	**428**	**443**	**1 009**	**369**	**381**	**1 044**	**101**	**183**

[a] Includes United Nations Logistics Base and outside the mission area.

51. The planned internal training activities during the period would continue to focus on the upgrading of substantive and technical skills and on leadership, management and organizational development for international and national staff and military personnel. A total of 29 courses for 356 international staff, comprising 22 courses for 248 international staff on the upgrading of technical and substantive skills and 7 courses for 108 international staff on leadership, management and organizational development, are planned. In addition, 25 courses for 351 national staff are planned, comprising 20 courses for 318 staff on the upgrading of substantive and technical skills and 5 courses for 33 staff on leadership, management and organizational development. Furthermore, 173 military personnel will be trained in 9 internal courses related to the upgrading of substantive and technical skills.

52. The planned external training activities, primarily at the United Nations Logistics Base, would also continue to focus on the upgrading of substantive and technical skills and on leadership, management and organizational development. A total of 80 courses, comprising 60 courses on the upgrading of substantive and technical skills and 20 courses on leadership, management and organizational development, are planned for a total of 87 international staff. In addition, 30 national staff will be trained in 30 courses on the upgrading of substantive and technical skills to be held outside the mission area. Furthermore, 10 military personnel will undertake external courses, comprising 7 courses on the upgrading of substantive and technical skills and 3 courses on leadership, management and organizational development.

G. Mine detection and mine-clearing services

53. The estimated resource requirements for mine detection and mine-clearing services for the period 1 July 2009 to 30 June 2010 are as follows:

(Thousands of United States dollars)

Category	*Estimated value*
Special equipment	
Mine detection and mine-clearing equipment	5.9
Other supplies, services and equipment	
Mine detection and mine-clearing services	2 105.0
Mine detection and mine-clearing supplies	117.2

54. The mine action programme in UNIFIL began in 2000 and is coordinated by the United Nations Mine Action Coordination Centre within UNIFIL. In the 2009/10 period, the Centre would continue to lead and coordinate all de-mining activities, including operational management, quality assurance and the training of troops in southern Lebanon in accordance with the memorandum of agreement between UNIFIL and the United Nations Office for Project Services, which administers the Centre.

H. Quick-impact projects

55. The estimated resource requirements for quick-impact projects for the period from 1 July 2009 to 30 June 2010, compared to previous periods, are as follows:

(Thousands of United States dollars)

Period	*Amount*	*Number of projects*
1 July 2007 to 30 June 2008 (actual)	500.0	25
1 July 2008 to 30 June 2009 (approved)	500.0	27
1 July 2009 to 30 June 2010 (proposed)	500.0	25

56. UNIFIL implemented 25 quick-impact projects in 2007/08. For the 2008/09 period, 27 projects are being implemented in the areas of (a) support to the extension of state authority/civic education/capacity-building, (b) conflict management/confidence-building initiatives, and (c) access to basic services.

57. In 2007/08, UNIFIL increased its efforts to support civil society, including the implementation of projects aimed at empowering and training young people in order to improve the understanding of the Force's mandate and activities, the rehabilitation of a community centre run by a steering committee composed of local non-governmental organizations and the municipality, and the establishment of a "multicultural" centre which will host activities on capacity-building and gender mainstream awareness. These projects have proven to be beneficial both in terms of strengthening civil society and of developing the Force's relationship at the grass-roots level through the provision of forums in which UNIFIL can interact with local non-governmental organizations and community groups. As substantiated by findings in a survey on the public perception of UNIFIL, experience has shown that the direct contact between UNIFIL and the local community is key to improving the understanding of the UNIFIL mandate and relations between the Force and the local community. UNIFIL quick-impact projects have been instrumental in ensuring that resources are utilized in a balanced manner throughout the area of operations. The projects have also allowed UNIFIL to target specific locations according to its priorities, the requirements of the municipalities and resources available to the contingents operating therein. Moreover, UNIFIL and all the contingents have determined that projects (both infrastructure and non-infrastructure) remain critical in fostering good relations with the local population and local authorities in the Force's area of operations.

58. UNIFIL is also using quick-impact projects as a means of developing local capacity, using a participatory approach. During the 2009/10 period, UNIFIL intends to continue collaborating with United Nations agencies, funds and programmes, and

with international and local non-governmental organizations in developing, implementing and monitoring activities and building the capacity of municipalities and communities, while strengthening the relationship between the Force and its hosts communities.

III. Qana incident

59. In paragraph 21 of its resolution 62/265, the General Assembly reiterated its request to the Secretary-General to take the necessary measures to ensure the full implementation of paragraph 8 of its resolution 51/233, paragraph 5 of its resolution 52/237, paragraph 11 of its resolution 53/227, paragraph 14 of its resolution 54/267, paragraph 14 of its resolution 55/180 A, paragraph 15 of its resolution 55/180 B, paragraph 13 of its resolution 56/214 A, paragraph 13 of its resolution 56/214 B, paragraph 14 of its resolution 57/235, paragraph 13 of its resolution 58/307, paragraph 13 of its resolution 59/307, paragraph 17 of its resolution 60/278, paragraph 21 of its resolution 61/250 A, paragraph 20 of its resolution 61/250 B and paragraph 20 of its resolution 61/250 C, stressed once again that Israel shall pay the amount of $1,117,005 resulting from the incident at Qana on 18 April 1996 and requested the Secretary-General to report on this matter to the Assembly at its current session. Pursuant to the requests in those resolutions, the amount has been recorded under accounts receivable in the Special Account for UNIFIL, and the Secretariat has transmitted 14 letters to the Permanent Mission of Israel on the subject, the most recent of which was dated 11 November 2008, for which no response has been received.

IV. Analysis of variances[1]

Reference

The present section describes the single largest contributing factor of each resource variance according to specific standard options encompassed in the four standard categories listed below:

- **Mandate**: variances caused by changes in the scale or scope of the mandate, or changes in the expected accomplishments as driven by the mandate
- **External**: variances caused by parties or situations external to the United Nations
- **Cost parameters**: variances caused by United Nations regulations, rules and policies
- **Management**: variances caused by management actions to achieve planned results more effectively (e.g. by reprioritizing or adding certain outputs) or efficiently (e.g. by taking measures to reduce personnel or operational inputs while maintaining the same level of outputs) and/or from performance-related issues (e.g. by having underestimated the costs or quantities of inputs required to produce a certain level of outputs, or by delayed recruitment)

	Variance	
Military contingents	($13 369.3)	(3.9%)

- **Management: reduced inputs and outputs**

60. The variance is due mainly to the application of a higher delayed deployment factor of 12 per cent compared to 8 per cent in the 2008/09 budget, resulting in reduced requirements for troop cost reimbursement, contingent travel and allowances, death and disability compensation and contingent-owned equipment, offset in part by increased requirements for rations based on the current rations contract.

	Variance	
International staff	$5 608.0	10.1%

- **Management: increased inputs and same outputs**

61. The variance is due mainly to the application of updated international staff costs based on the 2007/08 expenditures. A higher delayed recruitment factor of

[1] Resource variance amounts are expressed in thousands of United States dollars. Analysis is provided for variances of at least plus or minus 5 per cent or $100,000.

15 per cent compared to 14 per cent in 2008/09 has been applied to the cost estimate.

	Variance	
National staff	$1 674.4	4.6%

- **Management: increased inputs and same outputs**

62. The higher requirement is due mainly to the revised national staff salary scale effective 1 September 2008. A delayed recruitment factor of 15 per cent has been applied to the cost estimate as in the 2008/09 budget.

	Variance	
General temporary assistance	$160.7	19.1%

- **Management: increased inputs and same outputs**

63. The higher requirement is due mainly to the application of updated international staff costs based on the 2007/08 expenditures.

	Variance	
Consultants	$32.5	11.8%

- **Management: increased inputs and outputs**

64. The variance relates mainly to the requirements for a supply chain management consultant to analyse current supply chain practices and procedures and conduct gap analyses in order to suggest changes that should be made to the current processes so as to bring efficiencies in supply and distribution management in all components of UNIFIL.

	Variance	
Official travel	($71.3)	(5.2%)

- **Management: reduced inputs and outputs**

65. The reduced requirements are attributable mainly to the decreased number of personnel participating in external courses and the increased number of internal courses.

	Variance	
Facilities and infrastructure	$7 123.9	11.1%

- **Management: increased inputs and outputs**

66. The variance is due mainly to construction projects to be undertaken for the relocation and expansion of the Force headquarters, including the construction of the Integrated Operations Centre and situation centre, the generator warehouse, the transport workshop, seven concrete shelters and the installation of 20 solid ablutions units to replace containerized ones and the replacement of 20 generators. In addition, the variance is due to a higher requirement for self-sustainment costs based

on signed memorandums of understanding. The increased requirements are offset in part by reduced requirements for petrol, oil and lubricants, and for spare parts and supplies.

	Variance	
Ground transportation	($4 480.3)	(23.1%)

- **Management: reduced inputs and outputs**

67. The variance is due mainly to the acquisition of fewer vehicles and equipment (98 in 2009/10 compared to 136 in 2008/09). It is offset in part by higher requirements for the acquisition of vehicle workshop equipment, rental of vehicles (engineering equipment), repairs and maintenance, spare parts, and petrol and lubricants for 3,398 vehicles compared to 3,378 in the 2008/09 budget. A 5 per cent off-the-road adjustment has been applied to the cost estimate.

	Variance	
Air transportation	$1 180.2	15.6%

- **Management: increased inputs and outputs**

68. The variance is due mainly to the increase in flight hours to 2,574 hours in 2009/10 from 2,220 hours in 2008/09 owing to the increased number of shuttle flights from Naquora to Beirut in order to ensure the security of UNIFIL staff.

	Variance	
Communications	($2 358.8)	(10.1%)

- **Management: reduced inputs and same outputs**

69. The variance is due mainly to the reduced requirement for the acquisition of communications equipment, as major acquisitions were incurred in previous periods (2006/07 to 2008/09). The reduced requirement is offset in part by increased requirements for commercial communications, spare parts and self-sustainment costs.

	Variance	
Information technology	$486.3	9.5%

- **Management: increased inputs and outputs**

70. The increased requirement for information technology equipment reflects the provision to replace obsolete communications equipment, 407 desktop computers and monitors, 86 laptop computers and 98 printers and monitors, as part of an ongoing replacement programme. It is also due to the provision of spare parts, supplies and maintenance budgeted at 7.5 per cent of the total inventory value.

	Variance	
Special equipment	$602.8	10.0%

- **Cost parameters: increase in memorandum of understanding rates**

71. The increased requirement is due mainly to the increased provision for self-sustainment costs based on signed memorandum of understanding rates compared to draft memorandum of understanding rates in the 2008/09 budget.

	Variance	
Other supplies, services and equipment	($695.0)	(12.2%)

- **Management: reduced inputs and same outputs**

72. The variance is attributable primarily to (a) reduced requirements for mine detection and mine-clearing services owing to the projected transfer of mine-clearing responsibilities to the Lebanese Armed Forces by 30 June 2009, (b) reduced requirements for other freight and related costs, and (c) reduced requirements for other rations, owing to the exclusion of reserve packs for civilian personnel.

V. Actions to be taken by the General Assembly

73. **The actions to be taken by the General Assembly in connection with the financing of UNIFIL are:**

(a) Appropriation of the amount of $646,580,400 for the maintenance of the Force for the 12-month period from 1 July 2009 to 30 June 2010;

(b) Assessment of the amount of $107,763,400 for the period from 1 July to 31 August 2009;

(c) Assessment of the amount of $538,817,000 for the period from 1 September 2009 to 30 June 2010 should the Security Council decide to continue the mandate of the Force.

VI. Summary of follow-up action taken to implement the decisions and requests of the General Assembly in its resolutions 61/276 and 62/265 and requests and recommendations of the Advisory Committee on Administrative and Budgetary Questions endorsed by the Assembly, and of the United Nations Board of Auditors and the Office of Internal Oversight Services

A. General Assembly

(Resolution 61/276)

Decision/request	*Action taken to implement decision/request*
Section II: budgeting and budget presentation	
When submitting future budget proposals and performance reports, include information on the most significant management decisions relating to the mission's budget and its implementation, including those related to operational costs (para. 2).	UNIFIL has included information on the most significant management decisions relating to the Force's budget and its implementation in the performance report for 2007/08 and in the proposed budget for 2009/10.
Budget submissions should reflect management improvements and efficiency gains to be achieved and present future strategies in that regard (para. 4).	The present report contains information on management improvements and efficiency gains as well as future strategies.
Take further steps towards improving budget assumptions and forecasts and report thereon to the General Assembly at the second part of its resumed sixty-second session (para. 5).	UNIFIL has reviewed its human resources requirements across all components.
Improve control over obligations due to the significant increase in the cancellation of prior-period obligations (para. 6).	UNIFIL requests account holders to review obligations on a regular basis throughout the year.
Section III: results-based budgeting	
Integrate operational, logistical and financial aspects fully in the planning phase of peacekeeping operations by linking results-based budgeting to the mandate implementation plans of peacekeeping operations (para. 2).	The results-based budgeting for UNIFIL is directly linked to the mandate implementation plan.
Section VII: staffing, recruitment and vacancy rates	
Make greater use of national staff, as appropriate, commensurate with the requirements of the mission and its mandate (para. 3).	UNIFIL carried out a review of staffing levels required for the 2009/10 period.

Decision/request	*Action taken to implement decision/request*
Ensure that vacant posts are filled expeditiously (para. 4).	UNIFIL continues to fill vacant posts as expeditiously as possible.
Review the staffing structure of missions on an ongoing basis, bearing in mind, in particular, the mission's mandate and concept of operations, and to reflect this in budget proposals, including full justification of any additional posts proposed (para. 5).	UNIFIL carried out a review of staffing levels for the 2009/10 period.
Section IX: training	
Provide professional development opportunities for national staff and fully include such staff in all relevant training programmes (para. 2).	Opportunities for the professional development of national staff will continue to be identified and provided.
Section XIII: air operations	
Improve the formulation of resource requirements for air operations in budget submissions to make them more reflective of actual operations, bearing in mind the overbudgeting of air transportation requirements in some peacekeeping operations (para. 3).	UNIFIL takes into account the advice from United Nations Headquarters on up-to-date standard costs and budget formulation guidelines.
When reviewing their transportation requirements, missions must take into account means that are efficient, cost-effective and responsive to their operational needs and that ensure the safety of their personnel and take fully into account the unique mandate, complexities, specificities and operational conditions of each mission (para. 4).	UNIFIL continues to review its requirements in the context of its complex operational needs.
Conduct aviation quality inspections and aviation assessments to confirm that established standards are being fully complied with (para. 6).	Regular inspections are conducted by the Chief Aviation Officer and the Mission Aviation Safety Officer.
Section XVIII: quick-impact projects	
Quick-impact projects should be implemented with minimal or no overhead charges in order to ensure that the maximum amount is spent for the direct benefit of the local population (para. 5).	UNIFIL quick-impact projects are implemented, without overhead charges, through the local municipalities.
Funding for quick-impact projects for the third year of a mission and beyond may be requested if there is a requirement for confidence-building activities, in which case a needs assessment should be conducted (para. 6).	UNIFIL requires provision for quick-impact projects in the fourth year to fill the gap of access to basic services and to extend support to local authorities through capacity-building within the concept of restoration of State authority. Detailed information is provided in paragraphs 55 to 58 above.

Decision/request	*Action taken to implement decision/request*
Coordination with humanitarian and development partners should be made in order to avoid duplication and overlap of activities between missions and humanitarian and development partners in the field (para. 7).	UNIFIL coordinates with UNDP, UNICEF, international non-governmental organizations and the Lebanese State water and sanitation agency.
Mission budgets allocated for quick-impact projects should not be used to finance humanitarian and development activities already being carried out by United Nations agencies or other international organizations (para. 8).	As explained in paragraph 58 above, UNIFIL coordinates with UNDP, UNICEF, international non-governmental organizations and the Lebanese State water and sanitation agency.
Section XX: regional coordination	
Develop and implement regional coordination plans aligned to the objectives of missions, keeping in mind the specific mandate of each mission (para. 2).	Paragraphs 25 to 29 above contain detailed information on the Force's role and participation in regional coordination with other peacekeeping operations and United Nations offices in the region.
(Resolution 62/265)	
Notes the significant projected underexpenditure for the period from 1 July 2007 to 30 June 2008, as indicated in the report of the Advisory Committee on Administrative and Budgetary Questions, and requests the Secretary-General, to the extent possible, to take measures to improve budget forecasting with respect to the Force, bearing in mind the unpredictable nature of peacekeeping operations (para. 16).	The proposed 2009/10 budget reflects a 12 per cent delayed deployment factor for military contingent personnel, compared with a factor of 8 per cent for the 2008/09 period. The budget also reflects a higher vacancy factor of 15 per cent for international staff and 30 per cent for National Officers, and 15 per cent for national General Service staff compared with 14 per cent and 15 per cent, respectively, for 2008/09.
Requests the Secretary-General to keep the requirements for the Force under constant review and to report thereon in the context of his future budget proposals (para. 20).	UNIFIL reviews its requirements on a regular basis, as reflected in the changes in the vacancy factors for each financial period.

B. Advisory Committee on Administrative and Budgetary Questions

(A/62/781/Add.5)

Request/recommendation	*Action taken to implement request/recommendation*
The Committee recommends that the continuing requirements for communications be kept under review with a view to rationalizing expenditures in this regard (para. 31).	UNIFIL continues to review its requirements, as reflected in the 2009/10 budget proposal.

Request/recommendation	*Action taken to implement request/recommendation*
The Committee notes that the monthly rent for office accommodation, initially budgeted at $6,208 per month, has recently increased to $21,000 per month, on the basis of a market survey and negotiations with a potential landlord. In this regard, the Committee encourages the Secretary-General to pursue with the Government of Israel the timely provision of support expected from host Governments (para. 40)	UNIFIL has not yet entered into a lease agreement for the office space. It is currently reviewing alternate office accommodation, together with pursuing the provision of support from the Government of Israel.

C. Board of Auditors

(A/62/5, Vol. II, chap. II)

Request/recommendation	*Action taken to implement request/recommendation*
The Board recommends that UNIFIL strictly adhere to the requirements of rule 105.9 of the Financial Regulations and Rules of the United Nations in relation to unliquidated obligations, and improve their internal control procedures (para. 44).	UNIFIL adheres strictly to the requirements of rule 105.9 of the Financial Regulations and Rules of the United Nations.
The portfolio of evidence supporting the performance report had not been validated by an independent party. Such validation by the resident auditors at the mission would enhance the credibility of the performance reports. The Board recommends that the Administration ensure that (a) all performance results are properly substantiated by documented proof of output, and (b) information contained in the portfolio of evidence is certified as correct by the cost centre managers and validated on a test basis by the Office of Internal Oversight Services (paras. 83 (a) and 84).	UNIFIL submitted a copy of its draft performance report for the 2007/08 period to the Regional Oversight Office.
The inventory report at the end of the financial year disclosed that 613 items of non-expendable property worth $2.12 million were still pending write-off, 13 items valued at $0.48 million were pending with the Headquarters Property Survey Board. The Board reiterates its previous recommendation that the Department of Field Support and the Department of Management, respectively, ensure that the Local Property	UNIFIL has implemented various measures to ensure that disposals are acted upon without delay. The Force finalizes write-off submissions within a 40-day period, after which the Asset Disposal Unit acts promptly. The Force is in regular contact with the Department of Field Support regarding cases with the Headquarters Property Survey Board.

Request/recommendation	*Action taken to implement request/recommendation*
Survey Board and the Headquarters Property Survey Board expedite all cases that are brought to their attention, particularly in regard to assets that are pending write-off (paras. 128 (c) and 129).	
The Board recommends that the Administration take measures to implement the mission electronic fuel accounting system in full at all UNIFIL stations to enhance controls over fuel consumption (chap. II, para. 171).	The Mission Electronic Fuel Accounting System has been implemented at all UNIFIL locations and briefings to all major contingents have been completed. Reporting is conducted on a daily basis and regular inspections are being conducted to verify receipts and issues against stocks held.
There had been delays ranging from 11 to 67 days in the execution of 15 contracts. However, the requirement for liquidated damages had not been enforced. The Board recommends that the Administration ensure that, when executing contracts, all missions adhere strictly to the requirements of the Procurement Manual in respect of performance bonds and liquidated damages (paras. 201 and 203).	UNIFIL is in the process of developing a standard operating procedure to ensure that liquidated damages can be accurately calculated and subsequently deducted from the vendor's invoice. The guidelines will require close cooperation among many sections to capture data accurately. The standard operating procedure is expected to be completed by 31 January 2009.
10 instances were noted in which the performance of vendors had not been evaluated on a regular basis. The Board recommends that the Administration take steps to ensure that the mission strictly comply with the requirements of the Procurement Manual dealing with the evaluation of vendor performance (paras. 207 (b) and 208).	Requisitioners have been reminded of their obligation to complete the timely evaluations of vendor performance.
The Administration agreed with the Board's recommendation that the management of UNIFIL take the necessary measures to ensure that the vendor database is periodically updated. The Board also recommends that the management of both UNIFIL and UNOCI ensure strict compliance with the requirement relating to temporary vendors (paras. 214 and 215).	UNIFIL circulated re-registration letters to all 530 vendors in the Mercury database that were registered before 31 December 2004 and updated the database accordingly. The Mission updates the status of vendors continuously.
There was evidence that non-United Nations passengers had travelled on helicopter flights without the required approved flight requests and waivers of limited liability, thereby exposing the Organization to possible financial liability in the event of injury and death arising from such flights. The Board reiterates its previous	UNIFIL has implemented appropriate measures to improve flight management procedures and passenger handling. It is now standard procedure for passenger manifests to be posted one day before the flight and for non-United Nations personnel to complete the requisite form on the waiver of limited liability.

Request/recommendation	*Action taken to implement request/recommendation*
recommendation that UNIFIL strictly enforce the requirement relating to the approval of flight requests and waivers of limited liability whenever non-United Nations personnel are travelling on United Nations aircraft (paras. 260 and 261).	
The Board reiterated its previous recommendation that missions, in conjunction with headquarters, develop and implement comprehensive human resources plans, as well as succession plans, to enable them to attract and retain suitably qualified and trained personnel (para. 285).	The Human Resources Action Plan was rolled out to all missions for implementation on 1 July 2008. The implementation of the plan requires the initial gathering of substantial data. UNIFIL is in the process of gathering all the data, after which it will begin full implementation of the Plan.
Of a sample of 24 quick-impact projects, 13 had been reported as completed, 10 were ongoing and 1 had been cancelled owing to the release of funding by another donor. Discussions with the Office of Civil Affairs indicated that a number of projects that were considered critical to the local community but which were not covered by the quick-impact project criteria, had had to be undertaken. The Board recommends that the Administration, in collaboration with the management at missions, develop strategies to ensure that (a) quick-impact projects are completed within the agreed time frames, and (b) physical inspections are carried out periodically to ensure that the work undertaken is of an acceptable quality (paras. 333 and 338).	UNIFIL is committed to ensuring that quick-impact projects are completed within the agreed time frames and performs physical inspections to ensure that the work undertaken is of an acceptable quality.

D. Office of Internal Oversight Services

A/62/281 (Part II)

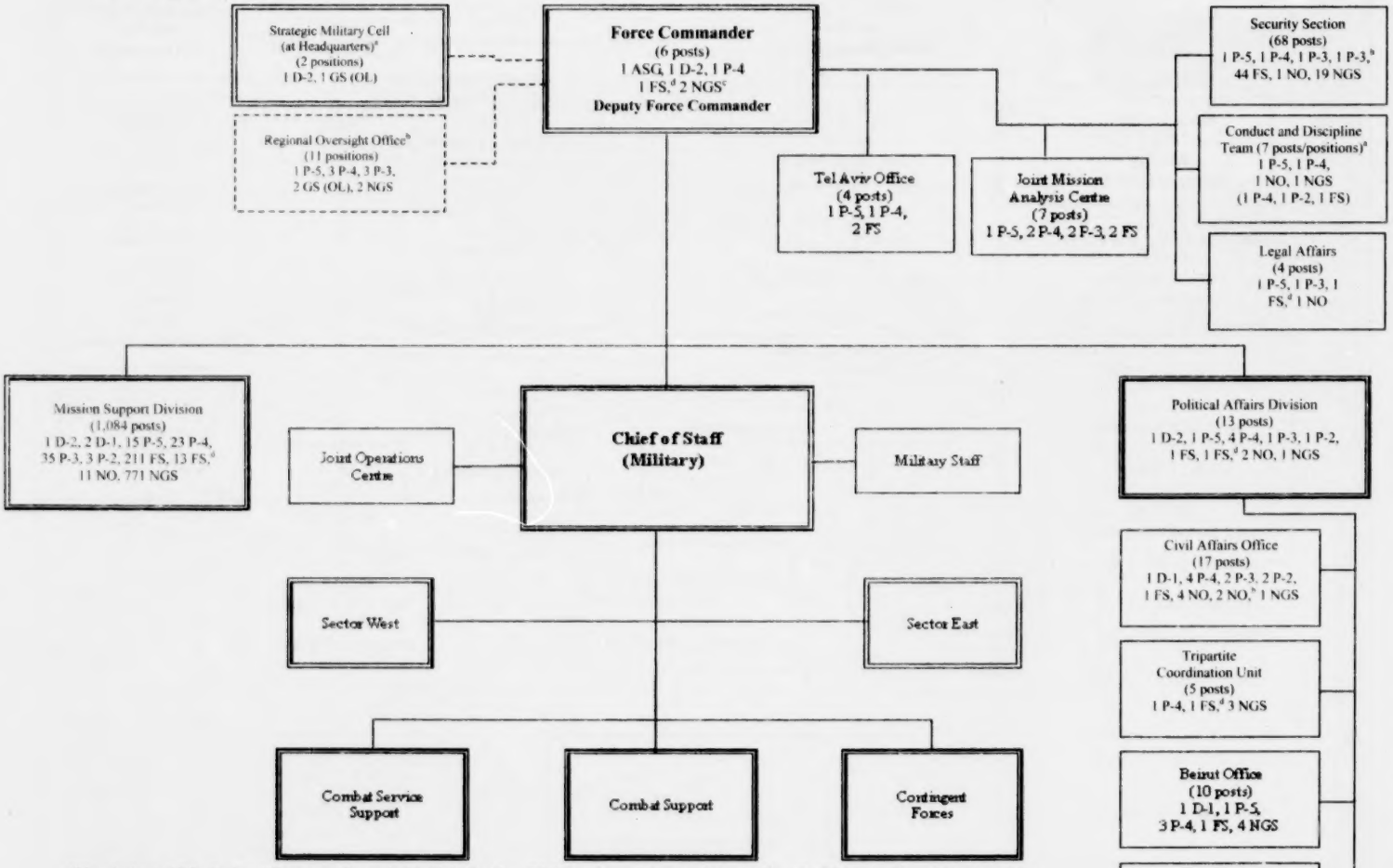
Request/recommendation	*Action taken to implement request/recommendation*
In an audit of UNIFIL, the Office of Internal Oversight Services (OIOS) found that the mission needed to formulate indicators of achievement and performance measures for the political and civilian affairs components of its operations. Indicators and performance measures are critical to evaluating the effectiveness of operations. OIOS also found that the roles and responsibilities of the expanded UNIFIL organizational units were not formally described in an information circular that would specifically define their reporting lines and accountability (para. 27).	UNIFIL formulates indicators of achievement and performance measures for the political and civil affairs components. The roles and responsibilities of the expanded UNIFIL organizational units have been formally described in an information circular from the Force Commander that specifically defines their reporting lines and accountability.

Request/recommendation	*Action taken to implement request/recommendation*
The shortcomings of the UNIFIL security mechanisms directly affected the security and safety of UNIFIL national staff during the security crisis in Lebanon in July-August 2006 and ultimately cost the life of one international staff member and his dependant. The Office recommended that UNIFIL comply with the Department of Safety and Security policies on the inclusion of national staff in the mission zone warden system and other security mechanisms to ensure that all staff are kept abreast of the latest information in the event of an emergency (para. 28).	UNIFIL complies with Department of Safety and Security policies on the inclusion of national staff in the mission zone warden system and other security mechanisms.

Annex

Organization chart

A. Operations



Abbreviations: ASG: Assistant Secretary-General; FS: Field Service; GS (PL): General Service (Principal level); GS (OL): General Service (Other level); NO: National Officer; NGS: national General Service.

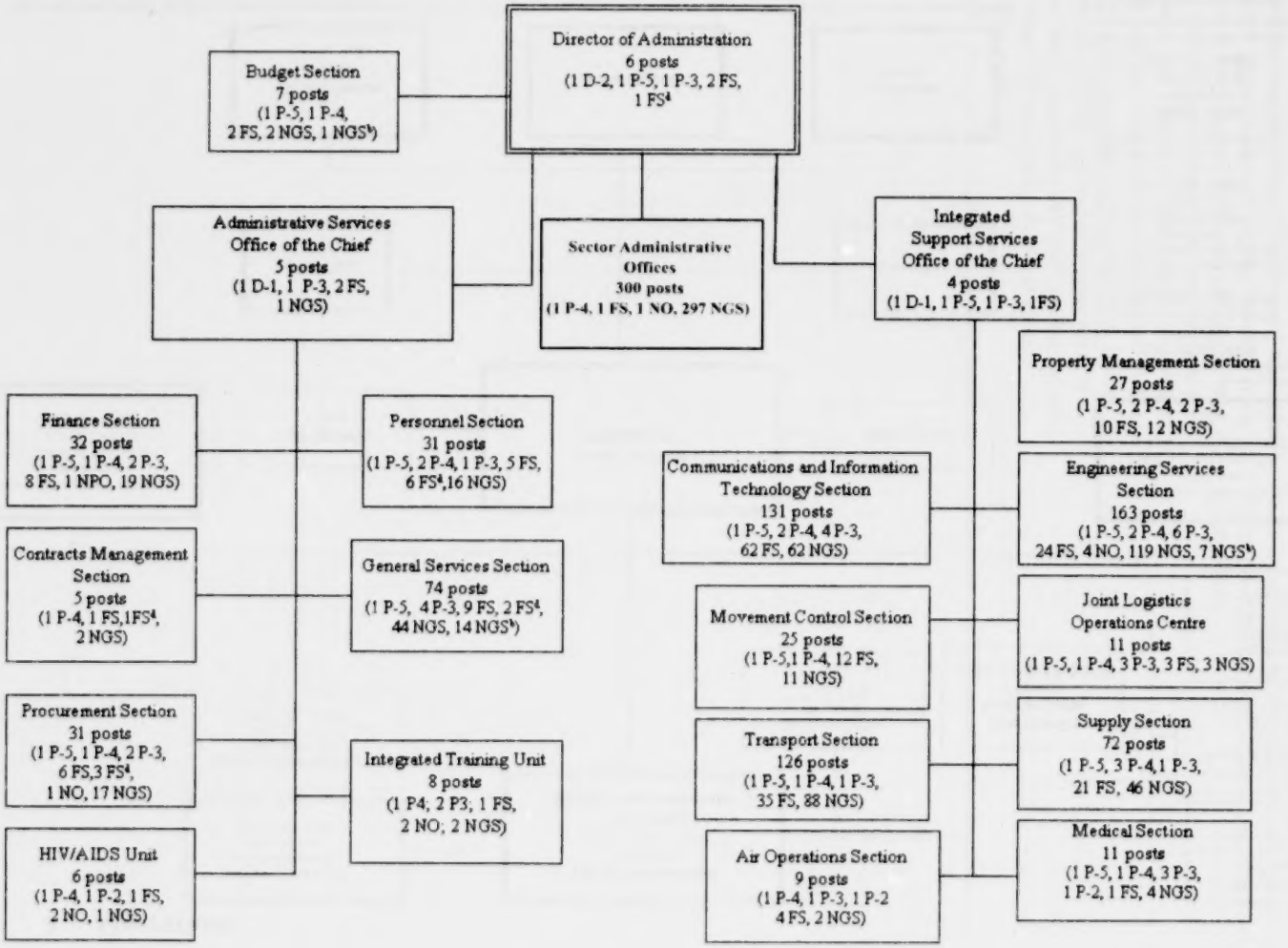
[a] To be funded under the peacekeeping support account.

[b] New post.

[c] Redeployed post.

[d] Post converted to Field Service category, without change in functions.

B. Mission Support Division



Map

Map No. 4144 Rev. 22 UNITED NATIONS
February 2009

Department of Field Support
Cartographic Section

United Nations A/63/689/Corr.1

General Assembly

Distr.: General
27 February 2009

Original: English

Sixty-third session
Agenda item 144 (b)
Financing of the United Nations peacekeeping forces in the Middle East: United Nations Interim Force in Lebanon

Budget for the United Nations Interim Force in Lebanon for the period from 1 July 2009 to 30 June 2010

Report of the Secretary-General

Corrigendum

Annex

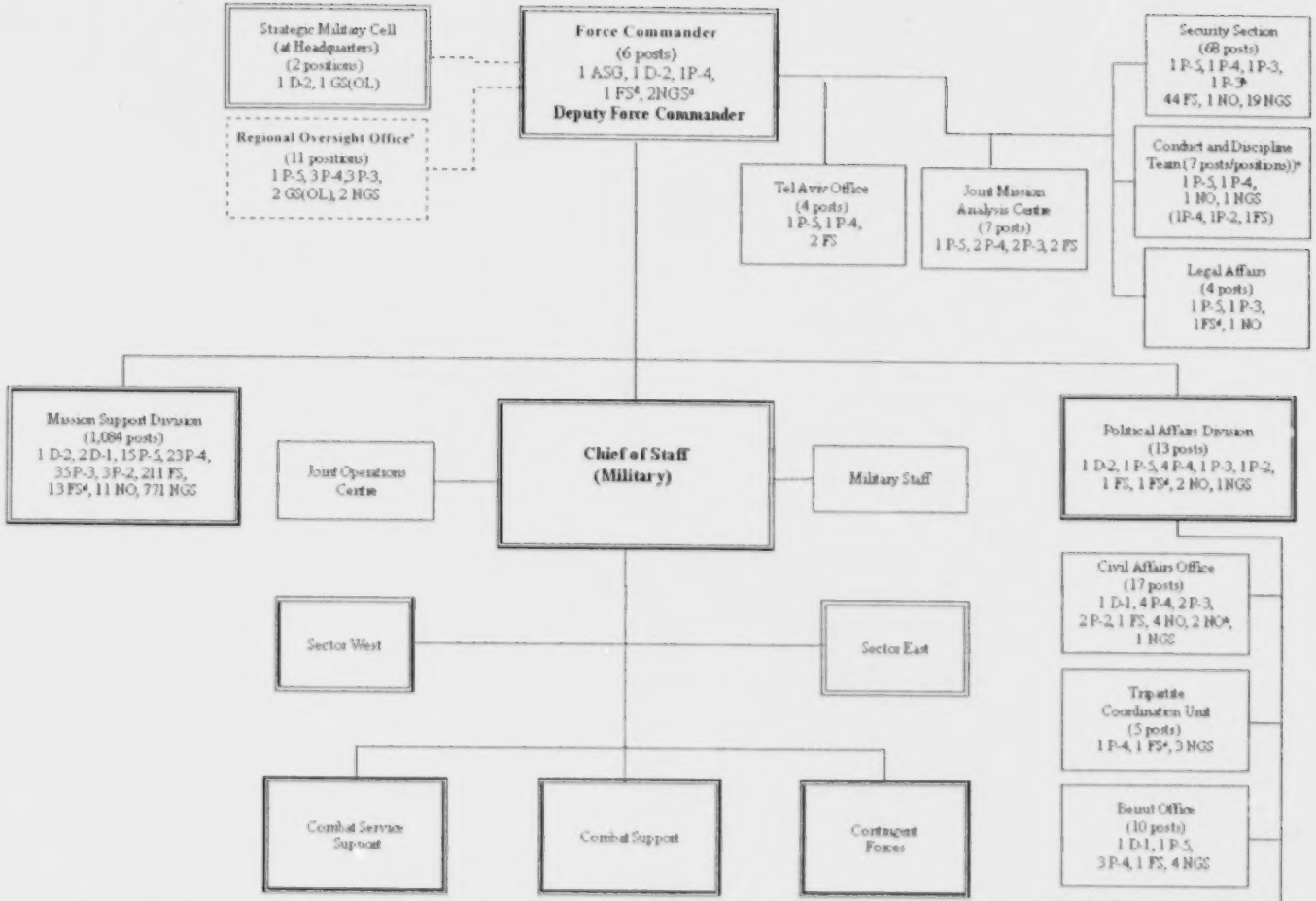
Replace organization chart A with the chart provided overleaf.

09-25215 (E) 040309

Annex

Organization chart

A. Operations



Abbreviations: ASG: Assistant Secretary-General; FS: Field Service; GS (PL): General Service (Principal Level); GS (OL): General Service (Other level); NO: National Officer; NGS: National General Service

[a] To be funded under the peacekeeping support account

[b] New post

United Nations A/63/690

General Assembly

Distr.: General
26 January 2009

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Sixty-third session
Agenda item 23
Question of the Falkland Islands (Malvinas)

Letter dated 21 January 2009 from the Permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the United Nations addressed to the Secretary-General

In accordance with instructions received from the Government of the United Kingdom of Great Britain and Northern Ireland, I have the honour to refer to the letter dated 3 January 2009 from the Deputy Permanent Representative of Argentina addressed to you (A/63/671), transmitting in an annex the text of a press release issued on 3 January 2009 by the Government of Argentina on the question of the Falkland Islands.

The Government of the United Kingdom has no doubt about the sovereignty of the United Kingdom over the Falkland Islands, South Georgia and the South Sandwich Islands and their surrounding maritime areas, and rejects the claims by the Government of Argentina to sovereignty over those islands and maritime areas and that the Falkland Islands are under illegal occupation by the United Kingdom.

The principle of self-determination, enshrined in the Charter of the United Nations, underlies our position on the sovereignty of the Falkland Islands. There can be no negotiation on the sovereignty of the Falkland Islands unless and until such time as the Falkland Islanders so wish. The Islanders regularly make it clear that they wish the Falkland Islands to remain under British sovereignty. The right of the people of the Falkland Islands to determine their political future was freely exercised throughout the negotiation of the new Falkland Islands Constitution, which came into force on 1 January 2009.

The United Kingdom firmly rejects the assertion that the new Falkland Islands Constitution shows disregard for any General Assembly resolution or that it violates, either in practice or in spirit, any aspect of the joint statements by the United Kingdom and Argentina. The formula on sovereignty agreed by both Governments as part of the joint statements was intended to enable the re-establishment of diplomatic relations between the United Kingdom and Argentina, while protecting both countries' positions on the sovereignty of the Falkland Islands, and thereafter to enable practical cooperation in the South Atlantic and to facilitate confidence-building. The joint statements make no reference to negotiations on sovereignty. The

09-21975 (E) 280109

United Kingdom rebutted the Argentine protest to which the Argentine press release refers on 18 November.

The United Kingdom continues to believe that there are many opportunities for cooperation in the South Atlantic under the sovereignty formula which would be of mutual benefit. The United Kingdom has made a number of proposals in this respect in recent years and remains keen to foster a constructive relationship with Argentina and to promote practical cooperation in the South Atlantic.

I should be grateful if you would circulate the text of the present letter as a document of the General Assembly under agenda item 23.

(*Signed*) John **Sawers**

United Nations A/63/691–S/2009/50

General Assembly
Security Council

Distr.: General
26 January 2009

Original: English

General Assembly
Sixty-third session
Agenda item 64
Promotion and protection of human rights

Security Council
Sixty-fourth year

Identical letters dated 23 January 2009 from the Permanent Representative of Qatar to the United Nations addressed to the Secretary-General and the President of the Security Council

I have the honour to forward herewith a letter from Her Highness Sheikha Mozha bint Nasser Al-Missned, the Consort of His Highness the Emir of the State of Qatar, addressed to Ambassador Jean-Maurice Ripert, Permanent Representative of France to the United Nations and President of the Security Council (see annex).

I would appreciate it if the present letter and its annex could be circulated as a document of the General Assembly, under agenda item 64, and of the Security Council.

(*Signed*) Nassir Abdulaziz **Al-Nasser**
Ambassador
Permanent Representative

09-22065 (E) 280109

Annex to the identical letters dated 23 January 2009 from the Permanent Representative of Qatar to the United Nations addressed to the Secretary-General and the President of the Security Council

[Original: Arabic]

Doha, 15 January 2009

As you are aware, on 4 January 2009, I addressed the Secretary-General of the United Nations regarding the shameful situation in Gaza. I expressed particular concern over the targeting of civilians and such civilian institutions as places of worship, schools and hospitals, in a manner that contravenes the most basic rights accorded by religious law and international conventions.

In my capacity as Chairperson of the Qatar Foundation for Education, Science and Community Development and as President of the International Organization for the Protection of Educational Institutions and their Employees in Crisis Areas, the headquarters of which are in Qatar, I reiterate through you my profound condemnation of and concern over the collective punishment and direct targeting to which the Palestinian people in the Gaza Strip is being subjected as a consequence of the attacks launched from air and sea and the ground invasion.

Given that the situation is seriously deteriorating, I would like, in my capacity as Special Envoy for Basic and Higher Education of the United Nations Educational, Scientific and Cultural Organization (UNESCO), to express my profound condemnation of the damage being inflicted on educational institutions and schools, and the direct and deliberate targeting of children and teachers by Israeli forces with no regard for the protected status of such institutions and, in particular, those run by the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA). As you are aware, Israeli occupation forces targeted the Fakhura School in the Jabaliya refugee camp, where defenceless civilians had taken refuge, leaving 43 dead and over 100 injured.

The eyes of the world are currently on the United Nations and, in particular, the Security Council, in the expectation that it will shoulder its responsibility to protect Palestinian civilians in the Gaza Strip, especially in view of the fact that the Council will, in the forthcoming few days, convene an open debate on the protection of civilians. I join my voice to those calling for the Security Council and its members to meet their political, moral and humanitarian obligations to the Palestinian people and the peoples of the region by conducting an investigation into the crimes that have been committed against Palestinian civilians and adopting a resolution containing effective measures to halt ongoing violations of human rights law and international humanitarian law with respect to Palestinian civilians. Such a resolution must be guided by the purposes and principles of the Charter of the United Nations, and take into account the commitments consequent upon that Charter and other international legal instruments, including the Fourth Hague Convention of 1907; the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War, including the provisions of the First Protocol to that Convention which are applicable to the situation in Occupied Palestinian Territory; and United Nations Security Council resolution 1860 (2009) of 8 January

2009 on the tragic situation in the Gaza Strip, as well as other previous resolutions relating to the situation in the Middle East, including the Palestinian question.

In my capacity as Special Envoy for Basic and Higher Education of UNESCO, I remind the President of the Council that Security Council resolution 1612 (2005) established a Working Group of the Security Council on Children and Armed Conflict and that paragraph 2 thereof called for a monitoring and reporting mechanism on children and armed conflict to address grave violations perpetrated against children in armed conflicts, which include the killing and maiming of children and attacks against schools.

Through you, I make a direct appeal to the Security Council to request the Secretary-General to report to it at the earliest opportunity on the status of Palestinian children in the Gaza Strip and the killing, maiming and displacement they have suffered, and on the deadly attacks carried out against schools and educational institutions, including the UNRWA Fakhura School in the Jabaliya camp. Such a report should be submitted with a view to the adoption by the Council of a resolution containing effective measures to halt the ongoing violations of human rights law and international humanitarian law to which children in the Gaza Strip are being subjected, and ensure that the occupying Power, Israel, is held responsible for its violations of international law and that the perpetrators are held accountable and punished for their acts.

This is a matter of importance, because the continued targeting of those institutions leaves Palestinian citizens with no safe havens from the indiscriminate aggression. We turn to the Security Council to take this necessary step in accordance with the provisions of international human rights law and international humanitarian law relating to the protection of civilian targets, including educational institutions and those who work in and benefit from them, in order to relieve the devastated people of Gaza and to hold accountable and punish the perpetrators for their acts.

The Council has no other option but to investigate, uncover the facts, and adopt a resolution containing effective measures to halt the ongoing violations of international human rights law and international humanitarian law, and present the incontrovertible evidence needed to hold the criminals accountable and punish them for the crimes they have perpetrated against Palestinian civilians in the Gaza Strip.

Our peoples expect to see as soon as possible the outcome of the investigations and the measures taken in that regard by the Council.

(*Signed*) Mozah bint Nasser **Al-Misnad**

09-22065

United Nations A/63/692–S/2009/51

General Assembly
Security Council

Distr.: General
27 January 2009

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General Assembly
Sixty-third session
Agenda items 13 and 18

Protracted conflicts in the GUAM area and their implications for international peace, security and development

The situation in the occupied territories of Azerbaijan

Security Council
Sixty-fourth year

Letter dated 23 January 2009 from the Permanent Representative of Azerbaijan to the United Nations addressed to the Secretary-General

I have the honour to transmit herewith the report on the international legal responsibilities of Armenia as the belligerent occupier of Azerbaijani territory (see annex).

I should be grateful if you would have the present letter and its annex circulated as a document of the General Assembly, under agenda items 13, "Protracted conflicts in the GUAM area and their implications for international peace, security and development", and 18, "The situation in the occupied territories of Azerbaijan", and of the Security Council.

(*Signed*) Agshin **Mehdiyev**
Ambassador
Permanent Representative

09-22170 (E) 250209

Annex to the letter dated 23 January 2009 from the Permanent Representative of Azerbaijan to the United Nations addressed to the Secretary-General

Report on the international legal responsibilities of Armenia as the belligerent occupier of Azerbaijani territory

1. The present Report provides the view of the Government of the Republic of Azerbaijan with regard to the international legal responsibilities of the Republic of Armenia ("Armenia") as the belligerent occupier of the legitimate and recognised territory of the Republic of Azerbaijan ("Azerbaijan")[1]. The Report addresses the following issues:

a) Is Armenia an occupier in international law of Azerbaijani territory?

b) If so, what are Armenia's duties as an occupier of Azerbaijani territory with regard to issues such as the maintenance of public order, the preservation of the Azerbaijani legal system and the protection of human rights in the territory in question?

c) How may Armenia's responsibilities be monitored and enforced in international law?

1. General

2. International law historically dealt with question of occupation of territory of a state as part of what used to be called the law of war and what is now called international humanitarian law.[2] The law is essentially laid down in three instruments, being the Regulations annexed to Hague Convention IV, Respecting the Laws and Customs of War on Land 1907 ("the Hague Regulations"); Geneva Convention IV on the Protection of Civilians in Time of War 1949 ("Geneva Convention IV") and Additional Protocol I to the Geneva Conventions of 1949 relating to the Protection of Victims of International Armed Conflicts 1977 ("Additional Protocol I").

3. Armenia became a party to Geneva Convention IV and to Additional Protocol I on 7 June 1993 and Azerbaijan became a party to Geneva Convention IV on 1 June 1993. Accordingly, Armenia is bound by all three of the instruments noted above, the Hague Regulations constituting customary international law.

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[1] For more information on the matter, see also the Reports entitled "Military Occupation of the Territory of Azerbaijan: a Legal Appraisal", A/62/491-S/2007/615, "The Legal Consequences of the Armed Aggression of the Republic of Armenia Against the Republic of Azerbaijan", A/63/662-S/2008/812, and "Fundamental Norm of the Territorial Integrity of States and the Right to Self-Determination in the Light of Armenia's Revisionist Claims", A/63/664-S/2008/823.

[2] See e.g. L. Green, *The Contemporary Law of Armed Conflict*, 2nd ed., Manchester, 2000, chapters 12 and 15; H.P. Gasser, "Protection of the Civilian Population" in D. Fleck (ed.), *Handbook of Humanitarian Law in Armed Conflict*, Oxford, 1995, p. 209; UK Ministry of Defence, *The Manual of the Law of Armed Conflict*, Oxford, 2004, chapters 9 and 11; E. Benvenisti, *The International Law of Occupation*, Princeton, 2004 and J. Pictet (ed.), *The Geneva Conventions of 12 August 1949: Commentary, Geneva Convention IV*, Geneva, 1958. See also A. Roberts, "What is a Military Occupation?", 55 British Year Book of International Law, p. 249.

a) Occupation and Sovereignty

4. The first point to make is that international law specifies that territory cannot be acquired by the use of force. Article 2 (4) of the United Nations Charter declares that "[a]ll Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state ..".

5. The Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations 1970[3] provided that:

> "The territory of a state shall not be the object of acquisition by another state resulting from the threat or use of force. No territorial acquisition resulting from the threat or use of force shall be recognised as legal".

6. Principle IV of the Declaration of Principles adopted by the Conference on Security and Cooperation in Europe in the Helsinki Final Act 1975 noted that:

> "The participating states will likewise refrain from making each other's territory the object of military occupation or other direct or indirect measures of force in contravention of international law, or the object of acquisition by means of such measures or the threat of them. No such occupation or acquisition will be recognized as legal".

7. It is, thus, abundantly clear that occupation does not confer sovereignty over the occupied territory upon the occupying state. Gasser, for example, writes that:

> "The annexation of conquered territory is prohibited by international law. This necessarily means that if one state achieves power over parts of another state's territory by force or threat of force, the situation must be considered temporary by international law. The international law of belligerent occupation must therefore be understood as meaning that the occupying power is not sovereign, but exercises provisional and temporary control over foreign territory".[4]

8. Accordingly, sovereignty over the occupied territory does not pass to the occupier. The legal status of the population cannot be infringed by any agreement concluded between the authorities of the occupied territory and the occupying power, nor by an annexation by the latter.[5] Occupation is, thus, a relationship of power and such power is regulated according to the rules of international humanitarian law, which lays down both the rights and the obligations of the occupying power pending termination of that status. Both the legal status of the parties to the conflict and the legal status of the territory in question remain unaffected by the occupation of that territory.[6] Accordingly, no action taken by Armenia or by its subordinate local authority within the occupied territories can

[3] Adopted in General Assembly resolution 2625 (XXV).
[4] *Op.cit*., p. 242. See also Benvenisti, *Op.cit*., p. 8. Note in addition *Prefecture of Voiotia v Germany (Distomo Massacre)*, Court of Cassation, Greece, 4 May 2000, 129 International Law Reports, pp. 514, 519 and *Mara'abe v The Prime Minister of Israel*, Israel Supreme Court, 15 September 2005, 129 International Law Reports, pp. 241, 252.
[5] See article 47 of Geneva Convention IV.
[6] See article 4 of Additional Protocol I.

affect the pre-existing legal status of these territories, which thus remain Azerbaijani in international law.

b) Commencement of Occupation

9. Article 42 of the Hague Regulations provides that:

> "Territory is considered occupied when it is actually placed under the authority of the hostile army. The occupation extends only to the territory where such authority has been established and can be exercised".

10. This provision is considered to be a rule of customary international law and thus binding on all states.[7] It was examined by the International Court of Justice in the *Construction of a Wall* advisory opinion, in which the Court declared that:

> "territory is considered occupied when it is actually placed under the authority of the hostile army, and the occupation extends only to the territory where such authority has been established and can be exercised".[8]

11. The International Court of Justice noted that:

> "under customary international law, as reflected in article 42 of the Hague Regulations of 1907, territory is considered to be occupied when it is actually placed under the authority of the hostile army, and the occupation extends only to the territory where such authority has been established and can be exercised .... In order to reach a conclusion as to whether a state, the military forces of which are present on the territory of another state as a result of an intervention, is an 'occupying power' in the meaning of the term as understood in the *jus in bello*, the Court must examine whether there is sufficient evidence to demonstrate that the said authority was in fact established and exercised by the intervening state in the areas in question".[9]

12. Article 2 of Geneva Convention IV provides that the convention shall apply:

> "to all cases of declared war or of any other armed conflict which may arise between two or more of the High Contracting Parties, even if the state of war is not recognised by one of them. The Convention shall also apply to all cases of partial or total occupation of the territory of a High Contracting Party, even if the said occupation meets with no armed resistance".[10]

13. Since both Armenia and Azerbaijan are parties to this Convention, they are bound by its provisions. This obligation thus derives from both quoted parts of the article. Insofar as the first paragraph is concerned, the official Commentary on the Convention notes that "[a]ny difference arising between two states and leading to the intervention of members of the armed forces is an

[7] See *Construction of a Wall*, ICJ Reports, 2004, pp. 136, 172.
[8] *Ibid.*, p. 167.
[9] *Congo v Uganda*, ICJ Reports, 2005, pp. 168, 229-30.
[10] See also article 3 of Additional Protocol I.

armed conflict within the meaning of article 2".[11] That this happened from the early 1990s is indisputable as is the continuing outbreak of low-level hostilities and loss of life.[12]

14. The International Court of Justice has discussed the meaning of this paragraph in its advisory opinion in the Construction of a Wall case.[13] It noted that the Convention is applicable under this paragraph when two conditions were fulfilled; that there exists an armed conflict and that the conflict is between two contracting parties. The Court continued by stating that "[i]f those two conditions are satisfied, the Convention applies, in particular, in any territory occupied in the course of the conflict by one of the contracting parties". Further, the Court noted that the object of the second paragraph, which provides that the Convention applies to "all cases of partial or total occupation of the territory of a High Contracting Party", was "directed simply to making it clear that, even if the occupation effected during the conflict met no armed resistance, the Convention is still applicable". As the Court emphasised, the purpose of the Convention was to seek to guarantee the protection of civilians irrespective of the status of the occupied territory.[14] It further underlined its approach by concluding that:

> "the Fourth Geneva Convention is applicable in any occupied territory in the event of an armed conflict arising between two or more High Contracting Parties".[15]

15. Further, the Eritrea–Ethiopia Claims Commission has pointed out that:

> "These protections [provided by international humanitarian law] should not be cast into doubt because the belligerents dispute the status of territory ... respecting international protections in such situations does not prejudice the status of the territory".[16]

16. Insofar as the conflict between Armenia and Azerbaijan is concerned, both the Hague Regulations and Geneva Convention IV apply. Further, as Armenia is a party to Additional Protocol I, this also applies.

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[11] Pictet (ed.), *Commentary*, *Op.cit.*, p. 20.

[12] See e.g. an AFP report dated 5 September 2007 stated that three Armenian and two Azerbaijani soldiers had been killed in fighting near Nagorny Karabakh. The report concludes by noting that "Armenian and Azerbaijani forces are spread across a ceasefire line in and around Nagorny Karabakh, often facing each other at close range, and shootings are common", <http://www.reliefweb.int/rw/rwb.nsf/db900sid/TBRL-76RMYP?OpenDocument>. See also the Parliamentary Assembly of the Council of Europe report on Migration, Refugees and Population dated 6 February 2006, which deplores "the frequent incidents along the ceasefire line and the border incidents, which are detrimental to refugees and displaced persons", Doc. 10835, <http://assembly.coe.int/Main.asp?link=/Documents/WorkingDocs /Doc06/EDOC10835.htm>, at para. 5. This terminology was repeated in Resolution 1497, 2006.

[13] ICJ Reports, 2004, pp. 136, 174-5.

[14] *Ibid.*, p. 175.

[15] *Ibid.*, p. 177.

[16] Partial Award, Central Front, Ethiopia's Claim 2, The Hague, 28 April 2004, para 28. See also article 4 of Additional Protocol I.

2. Armenia as an Occupier under International Law

a) Armenia as the Occupier of Azerbaijani Territory

17. The critical period for the determination of the status of Armenia as an occupying power of Azerbaijani territory is the end of 1991 for this was the period during which the USSR disintegrated and the new successor states came into being, thus transforming an internal dispute between the two Union Republics into an international conflict. There can be no occupation in an international law sense of the concept as between contending forces in an internal conflict. With the declaration of Armenian independence on 21 September 1991 and that of Azerbaijan on 18 October that year, the conflict over Nagorny Karabakh[17] became an international one. Both Armenia and Azerbaijan came to independence and were recognised as such in accordance with international law within the boundaries that they had had as republics of the USSR. This meant that Nagorny Karabakh was internationally accepted as falling with the territory of Azerbaijan.

18. Fighting in the region of Nagorny Karabakh intensified after independence of Armenia and Azerbaijan, followed by the increased involvement of troops from the Republic of Armenia during this period. The first armed attack by the Republic of Armenia against the Republic of Azerbaijan after the independence of the two Republics – an attack in which organized military formations and armoured vehicles operated against Azerbaijani targets – occurred in February 1992, when the town of Khojaly in the Republic of Azerbaijan was notoriously overrun.[18] Direct artillery bombardment of the Azerbaijani town of Lachin – mounted from within the territory of the Republic of Armenia – took place in May of that year.[19] Armenian attacks against areas within the Republic of Azerbaijan were resumed in 1993, eliciting a series of four Security Council resolutions. Human Rights Watch in its comprehensive report of December 1994 established on the basis of evidence it had collected "the involvement of the Armenian army as part of its assigned duties in the conflict ..". Such information was gathered by Human Rights Watch from prisoners from the Armenian army captured by Azerbaijan and from Armenian soldiers in Yerevan, the capital of Armenia. Western journalists also reported seeing busloads of Armenian army soldiers entering Nagorny Karabakh from Armenia. Human Rights Watch concluded that the Armenian army troop involvement in Azerbaijan made Armenia a party to the conflict and made the war an international armed conflict involving these two states.[20]

19. That there was and remains a situation of armed confrontation has been recognised by various United Nations organs. The UN Human Rights Committee, for example, has referred with regard to

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[17] Note that Nagorny Karabakh is sometimes written as Nagorno-Karabakh or Karabagh. In reality, "Nagorny Karabakh" is a Russian translation of the original name in Azerbaijani language – "Dağlıq Qarabağ" (pronounced as "Daghlygh Garabagh"), which literally means mountainous Garabagh. The word "Garabagh" is translated from Azerbaijani as "Black Garden". In order to avoid confusion the widely referred term "Nagorny Karabakh" will be used hereinafter.

[18] See T. de Waal, *Black Garden: Armenia and Azerbaijan through Peace and War* 170 (2003).

[19] See Statement by the Ministry of Foreign Affairs of the Republic of Azerbaijan, annexed to a Letter from the Permanent Representative of Azerbaijan to the President of the Security Council (Doc. S/23926, 14 May 1992).

[20] *Seven Years of Conflict in Nagorno-Karabakh*, New York, 1994, pp. 69-73.

Azerbaijan explicitly to "[t]he situation of armed conflict with a neighbouring country".[21] The Committee on the Elimination of Racial Discrimination noted in its Concluding Observations on Azerbaijan on 12 April 2001 that:

> "After regaining independence in 1991, the State party was soon engaged in war with Armenia, another State party. As a result of the conflict, hundreds of thousands of ethnic Azerbaijanis and Armenians are now displaced persons or refugees. Because of the occupation of some 20 per cent of its territory, the State party cannot fully implement the Convention".[22]

20. Further, this Committee proceeded to "express its concern about the continuation of the conflict in and around the Nagorny-Karabakh region of the Republic of Azerbaijan", a conflict which "undermines peace and security in the region and impedes implementation of the Convention".[23] Concern with "the conflict in the Nagorny-Karabakh region" was also expressed in the Committee's Concluding Observations on Azerbaijan on 14 April 2005.[24]

21. A similar position has been adopted by the UN Committee on Economic, Social and Cultural Rights. In its Concluding Observations on Azerbaijan on 22 December 1997, it was noted that "the State party is also faced with considerable adversity and instability due to an armed conflict with Armenia".[25] The Committee also referred to the "conflict with Armenia" in its Concluding Observations on Azerbaijan on 14 December 2004.[26]

22. The US Department of State's Country Reports on Human Rights Practices for Armenia 2006, for example, noted that:

> "Armenia continues to occupy the Azerbaijani territory of Nagorno-Karabakh and seven surrounding Azerbaijani territories. All parties to the Nagorno-Karabakh conflict have laid landmines along the 540-mile border with Azerbaijan and along the line of contact".[27]

23. The US Department of State's Country Reports on Human Rights Practices for Azerbaijan 2006 stated that:

> "Armenia continued to occupy the Azerbaijani territory of Nagorno-Karabakh and seven surrounding Azerbaijani territories. During the year, incidents along the militarized line of contact separating the sides as a result of the Nagorno-Karabakh conflict again resulted in numerous casualties on both sides. Reporting from unofficial sources indicated approximately 20 killed and 44 wounded, taking into account both military and civilian casualties on both sides of

[21] See the Concluding Observations of the Human Rights Committee: Azerbaijan, 3 August 1994, CCPR/C/79/Add. 38, at para. 2. The reference to "armed conflict" was repeated in the Committee's Concluding Observations on Azerbaijan on 12 November 2001, CCPR/CO/73/AZE, at para. 3.
[22] CERD/C/304/Add.75, at para. 3.
[23] *Ibid*, at para. 7.
[24] CERD/C/AZE/CO/4, at para. 10.
[25] E/C.12/1/Add.20, at para. 12.
[26] E/C.12/1/Add.104, at para. 11.
[27] <http://www.state.gov/g/drl/rls/hrrpt/2006/78799.htm>.

> the line of contact. According to the national agency for mine actions, landmines killed two persons and injured 15 others during the year".[28]

24. Further, the Freedom House Report on Azerbaijan for 2006 states that:

> "The Azerbaijani government continued to have no administrative control over the self-proclaimed Nagorno-Karabakh Republic (NKR) and the seven surrounding regions (Kelbajar, Gubatli, Djabrail, Fizuli, Zengilan, Lachin, and Agdam) that are occupied by Armenia. This area constitutes about 17 percent of the territory of Azerbaijan",[29]

while the International Crisis Group's Report on Nagorny Karabakh of 11 October 2005 notes in its Executive Summary that:

> "Armenia is not willing to support withdrawal from the seven occupied districts around Nagorno-Karabakh, or allow the return of Azerbaijani internally displaced persons (IDPs) to Nagorno-Karabakh, until the independence of Nagorno-Karabakh is a reality".[30]

25. The Security Council has consistently reaffirmed both the sovereignty and territorial integrity of Azerbaijan and the inadmissibility of the use of force for the acquisition of territory. It has further consistently recognised that Nagorny Karabakh is part of Azerbaijan and called on a number of occasions for the withdrawal of the occupying forces from all the occupied territories of Azerbaijan.

26. Security Council resolution 822 (1993) called for "the immediate cessation of all hostilities and hostile acts with a view to establishing a durable cease-fire, as well as immediate withdrawal of all occupying forces from the Kelbajar district and other recently occupied areas of Azerbaijan". Resolution 853 (1993) condemned "the seizure of the district of Agdam and of all other recently occupied areas of the Azerbaijani Republic" and demanded the "the immediate, complete and unconditional withdrawal of the occupying forces involved from the district of Agdam and all other recently occupied areas of the Azerbaijani Republic", while resolution 874 (1993) repeated the call for the "withdrawal of forces from recently occupied territories". Resolution 884 (1993) reaffirmed the earlier resolutions, condemned the occupation of the Zangelan district and the city of Goradiz in the Azerbaijani Republic and demanded the "unilateral withdrawal of occupying forces from the Zangelan district and the city of Goradiz, and the withdrawal of occupying forces from other recently occupied areas of the Azerbaijani Republic".

27. Resolutions 853 (1993) and 884 (1993) further called upon the Government of the Republic of Armenia to "continue to exert its influence" to achieve compliance with Security Council resolutions, as did the statement made by the President of the Security Council on 18 August 1993.[31]

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[28] <http://www.state.gov/g/drl/rls/hrrpt/2006/78801.htm>.
[29] <http://www.freedomhouse.org/template.cfm?page=47&nit=390&year=2006>.
[30] "Nagorno-Karabakh: A Plan for Peace", Report No. 167, p. I.
[31] S/26326, 18 August 1993.

28. The General Assembly of the United Nations has also included on its agenda from 2004, an item entitled "The Situation in the Occupied Territories of Azerbaijan". On 14 March 2008, the Assembly adopted resolution 62/243, including the following substantive provisions:

> "1. *Reaffirms* continued respect and support for the sovereignty and territorial integrity of the Republic of Azerbaijan within its internationally recognized borders;
>
> 2. *Demands* the immediate, complete and unconditional withdrawal of all Armenian forces from all the occupied territories of the Republic of Azerbaijan;
>
> 3. *Reaffirms* the inalienable right of the population expelled from the occupied territories of the Republic of Azerbaijan to return to their homes, and stresses the necessity of creating appropriate conditions for this return, including the comprehensive rehabilitation of the conflict-affected territories;
>
> 5. *Reaffirms* that no State shall recognize as lawful the situation resulting from the occupation of the territories of the Republic of Azerbaijan, nor render aid or assistance in maintaining this situation".

29. The report of the Political Affairs Committee of the Parliamentary Assembly of the Council of Europe, dated 19 November 2004, declared that:

> "Armenians from Armenia had participated in the armed fighting over the Nagorno-Karabakh region besides local Armenians from within Azerbaijan. Today, Armenia has soldiers stationed in the Nagorno-Karabakh region and the surrounding districts, people in the region have passports of Armenia, and the Armenian government transfers large budgetary resources to this area".[32]

30. Resolution 1416 (2005), adopted on 25 January 2005 by the Parliamentary Assembly of the Council of Europe, noted particularly that "[c]onsiderable parts of the territory of Azerbaijan are still occupied by Armenian forces" and reiterated that "the occupation of foreign territory by a member state constitutes a grave violation of that state's obligations as a member of the Council of Europe."

31. The International Crisis Group noted in its September 2005 report that "[a]ccording to an independent assessment, there are 8,500 Karabakh Armenians in the army and 10,000 from Armenia" and that "many conscripts and contracted soldiers from Armenia continue to serve in NK [Nagorny Karabakh]", while "[f]ormer conscripts from Yerevan and other towns in Armenia have told Crisis Group they were seemingly arbitrarily sent to Nagorno-Karabakh and the occupied districts immediately after presenting themselves to the recruitment bureau. They deny that they ever volunteered to go to Nagorno-Karabakh or the adjacent occupied territory". It was further noted that "[t]here is a high degree of integration between the forces of Armenia and Nagorno-Karabakh".[33]

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[32] David Atkinson, "The conflict over the Nagorno-Karabakh region dealt with by the OSCE Minsk Conference", Explanatory Memorandum, para. 6.

[33] "Nagorno-Karabakh: Viewing the Conflict from the Ground", Report no. 166, 14 September 2005, pp. 9-10.

32. The above indicative materials demonstrate clearly that the regular armed forces of the Republic of Armenia took direct part in the capture of Nagorny Karabakh and seven surrounding regions. Further, Armenia has sustained the existence of the "Republic of Nagorny Karabakh", an illegally created and entirely unrecognised entity within the internationally recognised territory of Azerbaijan, by a variety of political and economic means, including the maintenance of military forces in the occupied territories and on the line of contact.

33. It has been internationally recognised that Azerbaijani territories are under occupation and that Armenia has been actively involved in the creation and maintenance of that situation. Accordingly, Armenia is an occupying power within the meaning of the relevant international legal provisions. Article 6 of Geneva Convention IV declares that the Convention applies "from the outset of any conflict or occupation mentioned in article 2", so that it clearly applies as from the moment that Armenian forces entered Azerbaijani territory and will continue so to do until their final withdrawal.[34]

a) Armenia's Duties as an Occupier of Azerbaijani Territory

1) General

34. In the official statement of the ICRC delivered by Thürer in 2005, the following was noted with regard to the duties of an occupier in the light of the applicable law:

> "the occupying power must not exercise its authority in order to further its own interests, or to meet the interests of its own population. In no case can it exploit the inhabitants, the resources or other assets of the territory under its control for the benefit of its own territory or population. Any military occupation is considered temporary in nature; the sovereign title does not pass to the occupant and therefore the occupying powers have to maintain the *status quo*. They should thus respect the existing laws and institutions and make changes only where necessary to meet their obligations under the law of occupation, to maintain public order and safety, to ensure an orderly government and to maintain their own security".[35]

35. Article 43 of the Hague Regulations provides the essential framework of the law of occupation. It notes that:

> "The authority of the legitimate power having in fact passed into the hands of the occupant, the latter shall take all the measures in his power to restore and ensure, as far as possible, public order and safety [*l'ordre et la vie publics*], while respecting, unless absolutely prevented, the laws in force in the country".

[34] See Pictet, *Geneva Convention IV*, p. 60 with which the official statement of the International Committee of the Red Cross ("ICRC") delivered by D. Thürer on 21 October 2005 agrees, <http://www.icrc.org/web/eng/siteeng0.nsf/ htmlall/occupation-statement-211105?opendocument>. See also Roberts, "Military Occupation", *loc. cit.*, p. 256 and *Construction of a Wall*, ICJ Reports, 2004, pp. 136, 174, noting that Geneva Convention IV applies when an armed conflict between two contracting parties exists.

[35] <http://www.icrc.org/web/eng/siteeng0.nsf/htmlall/occupation-statement-211105?opendocument>.

36. Further, the International Court of Justice has emphasised that an occupying power is under an obligation under article 43:

> "to take all the measures in its power to restore, and ensure, as far as possible, public order and safety in the occupied area, while respecting, unless absolutely prevented, the laws in force [in the occupied area]. This obligation comprised the duty to secure respect for the applicable rules of international human rights law and international humanitarian law, to protect the inhabitants of the occupied territory against acts of violence, and not to tolerate such violence by any third party".[36]

37. Article 43 has been described as the "gist" of the law of occupation and the culmination of prescriptive efforts made in the nineteenth century and thus recognised as expressing customary international law.[37] The key features of this provision read together create a powerful presumption against change with regard to the occupying power's relationship with the occupied territory and population, particularly concerning the maintenance of the existing legal system, while permitting the occupier to "restore and ensure" public order and safety. While the balance between the two is not always clear, especially with regard to extended occupations, it is clear that the occupying power does not have a free hand to alter the legal and social structure in the territory in question and that any form of "creeping annexation" is forbidden. As Benvestisti has pointed out:

> "the administration of the occupied territory is required to protect two sets of interests: first, to preserve the sovereign rights of the ousted government, and, second, to protect the local population from exploitation of both their persons and their property by the occupant".[38]

2) Protection of the Existing Local Legal System

38. International humanitarian law provides for the keeping in place of the local legal system during occupation. This is a fundamental element in the juridical protection of the territory and population as they fall under the occupation of a hostile power. Article 43 of the Hague Regulations expressly provides for this in noting that the occupying power must respect local laws "unless absolutely prevented", a high threshold which may be only rarely achieved. This is because occupation is a temporary factual situation with minimal modification of the underlying legal structure with regard to the territory in question. The term "laws in force" is to be interpreted widely to include not only laws in the strict sense, but also constitutional provisions, decrees, ordinances, court precedents as well as administrative regulations and executive orders.[39]

39. Article 43 of the Hague Regulations has been supplemented by Geneva Convention IV. Article 64 provides, for example, that the penal laws of the occupied territory shall remain in force, unless they constitute a threat to the security of the occupying power. Occupying powers may however,

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[36] *Congo v Uganda*, ICJ Reports, 2005, pp. 168, 231.
[37] See Benvenisti, *Op.cit.*, pp. 7-8. See also M. Sassòli, "Legislation and Maintenance of Public Order and Civil Life by Occupying Powers", 16 European Journal of International Law, 2005, p. 661 and A. Roberts, "Transformative Military Occupation", 100 American Journal of International Law, 2006, p. 580.
[38] *Op.cit.*, p. 28. See also S. Wills, "Occupation Law and Multi-National Operations: Problems and Perspectives", 77 British Year Book of International Law, pp. 256, 264.
[39] See Sassòli, *loc. cit.*, pp. 668-9.

under the second paragraph to this provision, subject the population of the occupied territory to "provisions which are essential to enable the occupying power to fulfil its obligations under the present Convention, to maintain the orderly government of the territory, and to ensure the security of the Occupying Power, of the members and property of the occupying forces or administration, and likewise of the establishments and lines of communication used by them". However, this is to be restrictively interpreted and the difference between preserving local laws and providing for "provisions" which are "essential" is clear and significant. They mean not only that the legal system as such is unaffected save for the new measures which are not characterised as such as laws, but that the test for the legitimacy of these imposed measures is that they be "essential" for the purposes enumerated. The fact that the French term *indispensable* is used clearly demonstrates the restrictive nature of the reservation.

40. Article 64 also provides that "the tribunals of the occupied territory shall continue to function in respect of all offences covered by the said laws", while article 54 provides that:

> "the Occupying Power may not alter the status of public officials or judges in the occupied territories, or in any way apply sanctions to or take any measures of coercion or discrimination against them, should they abstain from fulfilling their functions for reasons of conscience".

41. In other words, while the occupying power may enact penal provisions of its own in order to maintain an orderly administration, such competence is constrained by the need to preserve the existing local legal system and by the need to comply with the rule of law.[40] Further, protected persons accused of offences shall be detained in the occupied country, and if convicted they shall serve their sentences therein.[41] Representative of the delegates of the International Committee of the Red Cross ("ICRC") have the right to go to all places where protected persons are found, particularly places of internment, detention and work.[42]

42. In addition to the preservation of the local legal system, article 56 provides that to the fullest extent of the means available to it, the occupying power has the duty of ensuring and maintaining, with the cooperation of national and local authorities, the medical and hospital establishments and services, public health and hygiene in the occupied territory, with particular reference to the adoption and application of the prophylactic and preventive measures necessary to combat the spread of contagious diseases and epidemics. Medical personnel of all categories are to be allowed to carry out their duties.[43]

3) Property Rights

43. Article 46 of the Hague Regulations provides that, *inter alia*, the lives of persons, and private property, as well as religious convictions and practice, must be respected. Article 46 also specifies that private property cannot be confiscated, except where requisitioned for necessary military

[40] See articles 67 and 69-75 of Geneva Convention IV and article 75 of Additional Protocol I.
[41] Article 76 of Geneva Convention IV.
[42] Article 143.
[43] See also article 14 of Additional Protocol I.

purposes, but even then requisitioning must take into account the needs of the civilian population.[44] Pillage is forbidden,[45] while reprisals against the property of protected persons are prohibited.[46]

44. Article 55 states that the occupying state shall be regarded only as administrator and usufructuary of public buildings, real estate, forests, and agricultural estates belonging to the hostile state, and situated in the occupied country and that it must safeguard the capital of these properties, and administer them in accordance with the rules of usufruct. In addition, article 56 provides that the property of municipalities, institutions dedicated to religion, charity and education, the arts and sciences, even when state property, shall be treated as private property and that all seizure of, destruction or wilful damage done to institutions of this character, historic monuments, works of art and science, is forbidden, and should be made the subject of legal proceedings.

45. Article 53 of Geneva Convention IV prohibits the destruction by the occupying power of any real or personal property belonging individually or collectively to private persons, or to the state, or to other public authorities, or to social or cooperative organizations, except where such destruction is rendered absolutely necessary by military operations.[47] It is a grave breach of the Convention to engage in extensive destruction not so justified.[48]

4) Protecting Protected Persons

46. A number of provisions exist detailing the treatment of persons within the occupied territory (termed protected persons under the convention). The major ones are as follows:

i) It is prohibited to employ protected persons for work outside the occupied territory (article 51 (3)).

ii) Protected persons are entitled, in all circumstances, to respect for their persons, their honour, their family rights, their religious convictions and practices, and their manners and customs. They shall at all times be humanely treated, and shall be protected especially against all acts of violence or threats thereof and against insults and public curiosity All protected persons shall be treated with the same consideration by the party to the conflict in whose power they are, without any adverse distinction based, in particular, on race, religion or political opinion (article 27).

iii) The party to the conflict in whose hands protected persons may be, is responsible for the treatment accorded to them by its agents, irrespective of any individual responsibility which may be incurred (article 28).

iv) No physical or moral coercion shall be exercised against protected persons, in particular to obtain information from them or from third parties (article 31).

[44] Article 52 of the Hague Regulations and article 55 of Geneva Convention IV.
[45] Article 47 of the Hague Regulations.
[46] Article 33 of Geneva Convention IV.
[47] See also article 23 (g) of the Hague Regulations.
[48] Article 147 of Geneva Convention IV.

v) There is a prohibition on taking any measure of such a character as to cause the physical suffering or extermination of protected persons in their hands. This prohibition applies not only to murder, torture, corporal punishments, mutilation and medical or scientific experiments not necessitated by the medical treatment of a protected person, but also to any other measures of brutality whether applied by civilian or military agents (article 32).

vi) No protected person may be punished for an offence he or she has not personally committed. Collective penalties and likewise all measures of intimidation or of terrorism are prohibited and reprisals against protected persons and their property are prohibited (article 33).

vii) The taking of hostages is prohibited (article 34).

5) Missing Persons

47. Special provisions apply with regard to missing persons. Article 26 of Geneva Convention IV provides that each party to the conflict shall facilitate enquiries made by members of families dispersed owing to the war, with the object of renewing contact with one another and of meeting, if possible. It shall encourage, in particular, the work of organizations engaged on this task provided they are acceptable to it and conform to its security regulations.

48. Article 33 of Additional Protocol I, which is specifically entitled "Missing Persons", provides that:

> "1. As soon as circumstances permit, and at the latest from the end of active hostilities, each party to the conflict shall search for the persons who have been reported missing by an adverse party. Such adverse party shall transmit all relevant information concerning such persons in order to facilitate such searches.
>
> 2. In order to facilitate the gathering of information pursuant to the preceding paragraph, each party to the conflict shall, with respect to persons who would not receive more favourable consideration under the Conventions and this Protocol:
>
> (a) Record the information specified in article 138 of the Fourth Convention in respect of such persons who have been detained, imprisoned or otherwise held in captivity for more than two weeks as a result of hostilities or occupation, or who have died during any period of detention;
>
> (b) To the fullest extent possible, facilitate and, if need be, carry out the search for and the recording of information concerning such persons if they have died in other circumstances as a result of hostilities or occupation.
>
> 3. Information concerning persons reported missing pursuant to paragraph 1 and requests for such information shall be transmitted either directly or through the Protecting Power or the Central Tracing Agency of the International Committee of the Red Cross or national Red Cross (Red Crescent, Red Lion and Sun) Societies. Where the information is not transmitted through the International Committee of the Red Cross and its Central Tracing Agency, each party to the conflict shall ensure that such information is also supplied to the Central Tracing Agency.

> 4. The parties to the conflict shall endeavour to agree on arrangements for teams to search for, identify and recover the dead from battlefield areas, including arrangements, if appropriate, for such teams to be accompanied by personnel of the adverse party while carrying out the missions in areas controlled by the adverse party. Personnel of such teams shall be respected and protected while exclusively carrying out these duties".

49. As a party to Additional Protocol I, Armenia is bound by the above provision.

50. Further, in resolution 59/189, adopted by the United Nations General Assembly on 20 December 2004, states parties to an armed conflict were called up to take all appropriate measures to prevent persons from going missing in connection with armed conflict and to account for persons reported missing as a result of such a situation. The resolution also reaffirmed both the right of families to know the fate of their relatives reported missing in connection with armed conflicts; and that each party to an armed conflict, as soon as circumstances permit and, at the latest, from the end of active hostilities, shall search for the persons who have been reported missing by an adverse party. States parties to an armed conflict were called upon to take all necessary measures, in a timely manner, to determine the identity and fate of persons reported missing in connection with the armed conflict.[49]

51. Resolution 1553 (2007) of the Council of Europe Parliamentary Assembly emphasised that the issue of missing persons was a "humanitarian problem with human rights and international humanitarian law implications" and that time was of the essence when seeking to solve the issue of the missing. The resolution noted that the Parliamentary Assembly was concerned by the "continuing allegations of secret detention of missing persons". The resolution also gave the figure of 4,499 Azerbaijanis listed as missing as a result of the Nagorny Karabakh conflict[50] and declared that:

> "The right to know the fate of missing relatives is ... firmly entrenched in international humanitarian law. Furthermore, state practice establishes as a norm of customary international law, applicable in both international and non-international armed conflicts, the obligations of each party to the armed conflict to take all feasible measures to account for persons reported missing as a result of armed conflict, and to provide their family members with any information it has on their fate. The right to know is also anchored in the rights protected under the European Convention on Human Rights, notably Articles 2, 3, 5, 8, 10 and 13".

6) Prohibition on Settlements in Occupied Territories

52. Article 49 of Geneva Convention IV provides that "the occupying power shall not deport or transfer parts of its own civilian population into the territory it occupies". This constitutes the basis and expression of a rule of law prohibiting the establishment of settlements in the occupied territories consisting of the population of the occupying power or of persons encouraged by the

[49] See also General Assembly resolutions 61/155, adopted on 19 December 2006, and 63/183, adopted on 18 December 2008.

[50] According to the State Commission of the Republic of Azerbaijan on Prisoners of War, Hostages and Missing Persons, 4210 citizens of Azerbaijan are registered missing in connection with the conflict as of 1 January 2008, of them 47 children, 256 women and 355 elderly.

occupying power with the intention, expressed or otherwise, of changing the demographic balance. The International Court of Justice has noted that this provision:

> "prohibits not only deportations or forced transfer of population such as those carried out during the Second World War, but also any measures taken by an occupying power in order to organise or encourage transfers or parts of its own population into the occupied territory".[51]

53. Such activity also constitutes a grave breach of Additional Protocol I[52] and, indeed, a breach of Armenia's own domestic legislation.[53] Attempts to change the demographic composition of occupied territories have also been condemned by the Security Council.[54] The Committee on the Elimination of Racial Discrimination in its Decision 2 (47) of 17 August 1995 on the situation in Bosnia and Herzegovina declared that "any attempt to change or to uphold a changed demographic composition of an area, against the will of the original inhabitants, by whichever means is a violation of international law",[55] while Special Rapporteur Al-Khasawneh in his Final Report on "Human Rights Dimensions of Population Transfer" for the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities underlined the illegality of population transfers and their prohibition under international human rights and humanitarian law.[56] This view was endorsed by the Sub-Commission in its consideration of the Report.[57]

54. Practice shows clearly that Armenia has violated this prohibition. Significant numbers of Armenian settlers have been encouraged to move into the occupied areas, in particular the Lachin area, an area that had been especially depopulated of its Azerbaijani inhabitants. There have been numerous independent reports of the introduction of settlers into the occupied areas.

55. The Report of the OSCE Fact-Finding Mission to the Occupied Territories of Azerbaijan Surrounding Nagorny Karabakh, 2005, concluded that the settlement figures were approximately as follows: 1,500 in Kelbajar district; 800 to 1,000 in Agdam district; under 10 in Fizuli district; under 100 in Jebrail district; 700 to 1,000 in Zangelan district and from 1,000 to 1,500 in Kubatly district.[58] The report also noted that some 3,000 settlers lived in Lachin town[59] and emphasised that "[s]ettlement incentives are readily apparent".[60] The US Committee for Refugees and Immigrants in its World Refugee Survey 2002 Country Report on Armenia stated that:

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[51] *Construction of a Wall*, ICJ Reports, 2004, pp. 136, 183.

[52] See article 85 (4) (a) defining as a grave breach of the Protocol: "The transfer by the Occupying Power of parts of its own civilian population into the territory it occupies, or the deportation or transfer of all or parts of the population of the occupied territory within or outside this territory, in violation of Article 49 of the Fourth Convention". It also amounts to a war crime under the Statute of the International Criminal Court 1998, see article 8 (2) b (viii).

[53] See J.M. Henckaerts and L. Doswald-Beck, *Customary International Humanitarian Law, vol I: Rules*, ICRC, Cambridge, 2005, p. 462, footnote 36.

[54] See e.g. resolutions 446, 452, 465, 476, 677.

[55] A/50/18, 1995, para. 26.

[56] E/CN.4/Sub.2/1997/23, 27 June 1997. See also the First Report by Al-Khasawneh and Hatano, E/CN.4/Sub.2/1993/17 and Corr.1, 1993.

[57] Sub-Commission resolution 1997/29.

[58] A/59/747-S/2005/187, at page 26.

[59] *Ibid.*, at page 29.

[60] *Ibid.*, at page 30.

"According to the de facto government of Nagorno-Karabakh, the population of the enclave stood at about 143,000 in 2001, slightly higher than the ethnic Armenian population in the region in 1988, before the conflict. Government officials in Armenia have reported that about 1,000 settler families from Armenia reside in Nagorno-Karabakh and the Lachin Corridor, a strip of land that separates Nagorno-Karabakh from Armenia. According to the government, 875 ethnic Armenian refugees returned to Nagorno-Karabakh in 2001. Most, but not all, of the ethnic Armenian settlers in Nagorno-Karabakh are former refugees from Azerbaijan. Settlers choosing to reside in and around Nagorno-Karabakh reportedly receive the equivalent of $365 and a house from the de facto authorities".[61]

56. In a paper prepared by Anna Matveeva on "Minorities in the South Caucasus" for the ninth session (May 2003) of the Working Group on Minorities of the UN Sub-Commission on Promotion and Protection of Human Rights, the following was stated:

"A policy of resettlement in areas held by the Armenian forces around Karabakh ('occupied territories' or 'security zone') which enjoy relative security has been conducted since 1990s. Applications for settlement are approved by the governor of Lachin who tends to mainly accept families. Settlers normally receive state support in renovation of houses, do not pay taxes and much reduced rates for utilities, while the authorities try to build physical and social infrastructure".[62]

57. The International Crisis Group report of September 2005 reported that:

"Stepanakert[63] considers Lachin for all intents and purposes part of Nagorno-Karabakh. Its demographic structure has been modified. Before the war, 47,400 Azeris and Kurds lived there: today its population is some 10,000 Armenians, according to Nagorno-Karabakh officials. The incentives offered to settlers include free housing, social infrastructure, inexpensive or free utilities, low taxes, money and livestock. In the town centre, up to 85 percent of the houses have been reconstructed and re-distributed. New power lines, road connections and other infrastructure have made the district more dependent upon Armenia and Nagorno-Karabakh than before the war".[64]

58. The International Crisis Group report of October 2005 stated that:

"The interest in Lachin seems to be based on more than security. Stepanakert, with Armenia's support, has modified the district's demographic structure, complicating any handover... Stepanakert considers Lachin for all intents and purposes part of Nagorno-Karabakh and has

[61] <http://refugees.org/countryreports.aspx?__VIEWSTATE=dDwxMTA1OTA4MTYwOztsPENvdW50cnlERDpH b0J1dHRvbjs%2BPrImhOOqDI29eBMz8b04PTi8xjW2&cid=312&subm=&ssm=&map=&_ctl0%3ASearchInput=+KEYWORD+SEARCH &CountryDD%3ALocationList>.

[62] E/CN.4/Sub.2/AC.5/2003/WP.7, 5 May 2003 at pages 34-35.

[63] Note that the name of the town was Khankendi until September 1923, when it was renamed after bolshevik leader Stepan Shaumian. Although the Azerbaijani authorities subsequently restored the original name of the town, it is still referred to by the Armenians as "Stepanakert".

[64] *Op.cit.*, p. 7.

> established infrastructure and institutions in clear violation of international law prohibitions on settlement in occupied territories".[65]

59. Accordingly, Armenia's breach of this important rule of international humanitarian law has been clearly established.

7) Application to Subordinate Local Administrations

60. Geneva Convention IV provides that for the continued existence of convention rights and duties irrespective of the will of the occupying power. Article 47 in particular provides that:

> "Protected persons who are in occupied territory shall not be deprived, in any case or in any manner whatsoever, of the benefits of the present Convention by any change introduced, as the result of the occupation of a territory, into the institutions or government of the said territory, nor by any agreement concluded between the authorities of the occupied territories and the Occupying Power, nor by any annexation by the latter of the whole or part of the occupied territory".

61. In particular, the rights provided for under international humanitarian law cannot be avoided by recourse to the excuse that another party is exercising elements of power within the framework of the occupation. This is the scenario that Roberts has referred to in noting that occupying powers often seek to disguise or limit their own role by operating indirectly by, for example, setting up "some kind of quasi-independent puppet regime".[66] It is clear, however, that an occupying power cannot evade its responsibility by creating, or otherwise providing for the continuing existence of, a subordinate local administration. The UK Manual of the Law of Armed Conflict has, for example, provided as follows:

> "The occupying power cannot circumvent its responsibilities by installing a puppet government or by issuing orders that are implemented through local government officials still operating in the territory".[67]

62. Accordingly, Armenia is responsible as the occupying power not only for the actions of its own armed forces and other organs and agents of its government, but also for the actions of its subordinate local administration in the occupied territories, including the forces and officials of the so-called "Republic of Nagorny Karabakh".

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[65] *Op.cit.*, p. 22. See also the full analysis of the settlement programme presented by the Permanent Representative of Azerbaijan to the UN in November 2004, A/59/568.
[66] "Transformative Military Occupation: Applying the Laws of War and Human Rights", 100 American Journal of International Law, 2006, pp. 580, 586.
[67] *Op.cit.*, p. 282.

3. The Application of International Human Rights Law to Occupations

63. In addition to the traditional rules of humanitarian law, international human rights law is now seen as in principle applicable to occupation situations. The International Court of Justice has interpreted article 43 of the Hague Regulations to include:

> "the duty to secure respect for the applicable rules of international human rights law and international humanitarian law, to protect the inhabitants of the occupied territory against acts of violence, and not to tolerate such violence by any third state".[68]

64. More generally, the International Court of Justice has discussed the relationship between international humanitarian law and international human rights law. In its advisory opinion on the *Legality of the Threat of Use of Nuclear Weapons*, the Court emphasised that "the protection of the International Covenant of Civil and Political Rights does not cease in times of war, except by operation of Article 4 of the Covenant whereby certain provisions may be derogated from in a time of national emergency" and in such cases the matter will fall to be determined by the applicable *lex specialis*, that is international humanitarian law.[69]

65. The Court returned to this matter in its advisory opinion on the *Construction of a Wall*, where it declared more generally that:

> "the protection offered by human rights conventions does not cease in case of armed conflict, save through the effect of provisions for derogation of the kind found in Article 4 of the International Covenant on Civil and Political Rights".[70]

66. As to the relationship between international humanitarian law and human rights law, the Court noted that there were three possible situations. First, some rights might be exclusively matters of humanitarian law, some rights might be exclusively matters of human rights law and some matters may concern both branches of international law.[71] It was essentially a question of interpretation of the particular instrument in question. In particular, the jurisdiction of states, while primarily territorial, may sometimes be exercised outside the national territory and in such a situation the International Covenant and other relevant human rights treaties had to be applied by state parties. This was an approach that was deemed consistent with both the *travaux préparatoires* of, for example, the International Covenant on Civil and Political Rights and with the constant practice of the Human Rights Committee established under it.[72]

67. The Court concluded by affirming that the International Covenants on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the Convention on

[68] *Congo v Uganda*, ICJ Reports, 2005, pp. 168, 231 and 242 and following.
[69] ICJ Reports, 1996, pp. 226, 239.
[70] ICJ Reports, 2004, pp. 136, 178.
[71] *Ibid.*
[72] *Ibid.*, pp. 179-82.

the Rights of the Child were "applicable in respect of acts done by a state in the exercise of its jurisdiction outside of its own territory".[73]

68. It is also worth point out the applicability of the general principle of state responsibility for the acts of its organs which would obviously include members of its armed forces acting abroad.[74] The Court interestingly referred in addition in the *Construction of a Wall* case to the prolonged occupation question and to the applicability of the International Covenant on Economic, Social and Cultural Rights.[75]

69. The Court returned to the question of the relationship between international humanitarian law and international human rights law by reaffirming that:

> "international human rights instruments are applicable 'in respect of acts done by a state in the exercise of its jurisdiction outside its own territory', particularly in occupied territories".[76]

70. Accordingly, it is now accepted that the law applicable in occupation situations includes multilateral human rights instruments to which the occupying power is a party. This means inevitably not only that the organs and agents of the occupying power must act in conformity with the provisions of such instruments, but also that the population is entitled to the benefit of their application. Thus, the application of human rights law in these situations impacts upon the powers and duties of the occupier and affects the traditional attempts to balance military necessity and humanity in any occupation.

71. Armenia is a party to the following universal human rights conventions as from the date in parenthesis:

i) International Covenant on Civil and Political Rights (23 June 1993) ("ICCPR");

ii) International Covenant on Economic, Social and Cultural Rights (13 September 1993) (ICESCR");

iii) Convention on the Prevention and Punishment of the Crime of Genocide (23 June 1993);

iv) Convention on the Elimination of All Forms of Racial Discrimination (23 June 1993);

v) Convention on the Rights of the Child (23 June 1993);

vi) Convention on the Elimination of All Forms of Discrimination against Women (13 September 1993);

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[73] *Ibid.*, pp. 180 and 181.
[74] See e.g. *Difference Relating to Immunity from Legal Process of a Special Rapporteur,* ICJ Reports, 1999, p. 87 and *Congo v Uganda,* ICJ Reports, 2005, pp. 168, 242. See also Article 4 of the International Law Commission's Articles on State Responsibility, 2001, A/56/10 and General Assembly resolution 56/83 of 12 December 2001.
[75] ICJ Reports, 2004, pp. 136, 181 (emphasis added).
[76] ICJ Reports, 2005, pp. 178, 242-43.

vii) Convention against Torture (13 September 1993).[77]

72. Accordingly, Armenia is bound by the provisions of these conventions not only within its own borders, but also in the occupied territories of Azerbaijan. One may note briefly the relevance of the following obligations by way of example:

i) The obligation to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the particular instrument, without distinction of any kind (article 2, ICCPR and article 2, ICESCR);

ii) Right to life (article 6, ICCPR);

iii) Prohibition of torture and cruel, inhuman and degrading treatment or punishment (article 7, ICCPR and Convention against Torture);

iv) Right to liberty and security of person (article 9, ICCPR);

v) Right to liberty of movement and the right not to be arbitrarily deprived of the right to enter one's own country (article 12, ICCPR);

vi) Right to equality before court and tribunals (article 14, ICCPR) and to equality of protection before the law (article 26, ICCPR);

vii) Prohibition of arbitrary or unlawful interference with privacy, family, home or correspondence (article 17, ICCPR);

viii) Right to freedom of thought, conscience and religion;

ix) Prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence (article 20);

x) Rights to peaceful assembly and association (articles 21 and 22, ICCPR);

xi) Right and opportunity, without distinction and without unreasonable restrictions to take part in the conduct of public affairs, directly or through freely chosen representatives; to vote and to have access, on general terms of equality, to public service in one's country (article 25, ICCPR);

xii) Right of persons belonging to minorities not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language (article 27, ICCPR).

[77] Armenia is also a party to the International Convention for the Protection of All Persons from Enforced Disappearance 2006 (10 April 2007). This Convention is not yet in force.

73. In addition, Armenia is also a party to the European Convention on Human Rights. The question of the application of this Convention extraterritorially by states parties has been the subject of a number of important cases.

74. The European Court of Human Rights has interpreted the concept of 'jurisdiction' as it appears under article 1 ("High Contracting Parties shall secure to everyone within their jurisdiction the rights and freedoms defined in Section I of this Convention") to include the situation where acts of the authorities of contracting states, whether performed within or outside national boundaries, produce effects outside their own territory.[78] The Court emphasised that:

> "Bearing in mind the object and purpose of the Convention, the responsibility of a Contracting Party may also arise when as a consequence of military action whether lawful or unlawful it exercises effective control of an area outside its national territory. The obligation to secure, in such an area, the rights and freedoms set out in the Convention derives from the fact of such control whether it be exercised directly, through its armed forces, or through a subordinate local administration".[79]

75. The Court clarified further that a state's responsibility in exercising effective control over the area outside its national territory "cannot be confined to the acts of its own soldiers or officials [in that area] but must also be engaged by virtue of the acts of the local administration which survives by virtue of [this state's] military and other support".[80] Such responsibility would cover acts of a state supporting the installation of a separatist state within the territory of another state.[81] Responsibility could also be engaged by the acquiescence or connivance of the authorities of a contracting state in the acts of private individuals which violate the convention rights of other individuals within its jurisdiction, particularly with regard to the recognition by a state of the acts of "self-proclaimed authorities which are not recognised by the international community".[82]

76. Accordingly, the responsibility of Armenia for violations of the European Convention of Human Rights in the occupied territory of Azerbaijan is engaged. The relevant rights under this Convention would include the right to life (article 2), the prohibition of torture and inhuman and degrading treatment and punishment (article 3), due process (article 5), fair trial (article 6), the right to private and family life (article 8) and the right to peaceful enjoyment of property (article 1 of Protocol I).

4. Implementation of Armenia's Responsibilities under Applicable International Law

77. To the extent that Armenia has violated the relevant applicable law with regard to the occupation of Azerbaijani territory, it is responsible under international law. That is the essential

[78] See e.g. *Drozd and Janousek v. France and Spain*, Series A, vol. 240, 1992, p. 29. See also *Loizidou v. Turkey*, Judgments of 23 February 1995 and 28 November 1996, *Cyprus v. Turkey*, Judgment of 10 May 2001, *Ilaycu v Moldova and Russia*, Judgment of 8 July 2004.
[79] Judgment of 23 February 1995 at para. 62. See also Judgment of 28 November 1996 at para. 52, Judgment of 10 May 2001, paras. 75 and following.
[80] Judgment of 10 May 2001 at para. 77 and Judgment of 8 July 2004 at paras. 312 and the following.
[81] Judgment of 8 July 2004, para. 312.
[82] Judgment of 8 July 2004, para 318. See also Judgment of 10 May 2001, para 81.

fact. As article 1 of the Articles on State Responsibility adopted by the International Law Commission on 9 August 2001[83] declares, "[e]very internationally wrongful act of a state entails the international responsibility of that state", while article 2 provides that there is an internationally wrongful act of a state when conduct consisting of an action or omission is attributable to the state under international law and constitutes a breach of an international obligation of the state. This principle has been affirmed in the case-law.[84]

78. It is international law that determines what constitutes an internationally unlawful act, irrespective of any provisions of municipal law.[85] Article 12 stipulates that there is a breach of an international obligation when an act of that state is not in conformity with what is required of it by that obligation, regardless of its origin or character.[86] A breach that is of a continuing nature extends over the entire period during which the act continues and remains not in conformity with the international obligation in question,[87] while the Permanent Court of International Justice has emphasised that "it is a principle of international law, and even a greater conception of law, that any breach of an engagement involves an obligation to make reparation".[88]

79. Any state responsible for an internationally wrongful act is under an obligation to cease that act, if it is continuing, and to offer appropriate assurances and guarantees of non-repetition if circumstances so require.[89] Armenia is under such an international obligation.

80. The question of implementation or enforcement of the relevant responsibility laid down in international humanitarian law and under international human rights law, however, is a separate legal and practical question. There are a number of relevant mechanisms. To the extent that Armenia is in violation of relevant UN treaties, organs created under such conventions (such as the Human Rights Committee; the Committee on Economic, Social and Cultural Rights; the Committee on the Elimination of Racial Discrimination; the Committee against Torture etc.) possess the jurisdiction to monitor and hold to account states, including Armenia, that have breached the binding provisions in question. The same is true of relevant regional conventions, in particular the European Convention on Human Rights, with the European Court of Human Rights being a particularly active body and one capable as a court of producing binding decisions.

81. International humanitarian law has its own implementation processes. Parties to the 1949 Geneva Conventions and to Additional Protocol I undertake to respect and to ensure respect for the instrument in question,[90] and to disseminate knowledge of the principles contained therein.[91] A

[83] Commended to governments in General Assembly resolution 56/83. See also General Assembly resolutions 59/35 and 62/61.
[84] See e.g. *Chorzów Factory* case, PCIJ, Series A, No. 9, p. 21 and the *Rainbow Warrior* case, 82 International Law Reports, p. 499.
[85] Article 3.
[86] See the *Gabčikovo-Nagymaros Project* case, ICJ Reports, 1997, pp. 7, 38.
[87] See article 14. See also e.g. the *Rainbow Warrior* case, 82 International Law Reports, p. 499; the *Gabcikovo-Nagymaros (Hungary v Slovakia)* case, ICJ Reports, 1997, pp. 7, 54; *Genocide Convention (Bosnia v Serbia)* case, ICJ Reports, 2007, para. 431; *Loizidou* v. *Turkey*, Merits, European Court of Human Rights, Judgment of 18 December 1996, paras. 41–7 and 63–4; and *Cyprus* v. *Turkey*, European Court of Human Rights, Judgment of 10 May 2001, paras. 136, 150, 158, 175, 189 and 269.
[88] The *Chorzów Factory* case, PCIJ, Series A, No. 17, 1928, p. 29; 4 AD, p. 258. See also the *Corfu Channel* case, ICJ Reports, pp. 4, 23.
[89] Article 30. See also the *Rainbow Warrior* case, 82 International Law Reports, pp. 499, 573.
[90] Common article 1.
[91] See e.g. article 144 of Geneva Convention IV and article 83 of Additional Protocol I.

variety of enforcement methods also exist, although the use of reprisals has been prohibited.[92] One of the means of implementation is the concept of the Protecting Power, appointed to look after the interests of nationals of one party to a conflict under the control of the other, whether as prisoners of war or occupied civilians. Such a power must ensure that compliance with the relevant provisions has been effected and that the system acts as a form of guarantee for the protected person as well as a channel of communication for him with the state of which he is a national. However, the drawback of this system is its dependence upon the consent of the parties involved. Not only must the Protecting Power be prepared to act in that capacity, but both the state of which the protected person is a national and the state holding such persons must give their consent for the system to operate.[93]

82. Additional Protocol I also provides for an International Fact-Finding Commission[94] with competence to inquire into grave breaches[95] of the Geneva Conventions and that Protocol or other serious violations, and to facilitate through its good offices the "restoration of an attitude of respect" for these instruments. This body came into being as the International Humanitarian Fact-Finding Commission in 1991 after 20 states parties to the Protocol agreed to accept its competence.[96] The parties to a conflict may themselves, of course, establish an ad hoc inquiry into alleged violations of humanitarian law.[97]

83. An important monitoring and indeed implementation role is played by the International Committee of the Red Cross.[98] This body has a wide-ranging series of functions to perform, including working for the application of the Geneva Conventions and acting in natural and man-made disasters. It has operated in a large number of states, visiting prisoners of war and otherwise functioning to ensure the implementation of humanitarian law.[99] It operates in both international and internal armed conflict situations. It is involved in the Armenia-Azerbaijan conflict.

84. The International Court of Justice in the *Construction of a Wall* case referred to the "special position" of the ICRC concerning execution of Geneva Convention IV, which "must be 'recognised and respected at all times' by the parties pursuant to article 142 of the Convention".[100] In addition, the Eritrea-Ethiopia Claims Commission has noted that the ICRC had been assigned significant responsibilities in a number of articles of the Geneva Convention III (with which it was concerned) both as a humanitarian organization providing relief and as an organization providing necessary and vital external scrutiny of the treatment of prisoners of war.[101]

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[92] See e.g. articles 20 and 51(6) of Additional Protocol I.

[93] See article 9 of Geneva Convention IV.

[94] See article 90 of Additional Protocol I.

[95] See articles 50, 51, 130 and 147 of the four 1949 Conventions respectively and article 85 of Additional Protocol I. A Commission of Experts was established in 1992 to investigate violations of international humanitarian law in the territory of the Former Yugoslavia, see Security Council resolution 780 (1992). See also the Report of the Commission of 27 May 1994, S/1994/674.

[96] See UK Manual, *Op.cit.*, p. 415. As of October 2008, 70 of the 168 states parties to the Protocol (but not including either Armenia or Azerbaijan) have accepted the competence of the Commission, see statement of the President of the Commission dated 23 October 2008, <http://www.ihffc.org/en/documents/IHFFC_PresGA0810. pdf>.

[97] Articles 52, 53, 132 and 149 of the four 1949 Conventions respectively.

[98] See e.g. G. Willemin and R. Heacock, *The International Committee of the Red Cross*, The Hague, 1984, and D. Forsythe, "The Red Cross as Transnational Movement", 30 *International Organisation*, 1967, p. 607.

[99] See e.g. article 142 of Geneva Convention IV.

[100] ICJ Reports, 2004, pp. 136, 175-6.

[101] Partial Award, Prisoners of War. Ethiopia's Claim 4 case, 1 July 2003, paras. 58 and 61-2.

85. It is, of course, also the case that breaches of international humanitarian law or international human rights law may constitute war crimes or crimes against humanity or even genocide for which universal jurisdiction is provided with regard to alleged offenders.[102] In such cases, pursuit of such individuals may be undertaken through the domestic courts of involved or third party states. There is no current international criminal court or tribunal with relevant individual jurisdiction with regard to Armenia. State responsibility in such cases may be enforced through relevant inter-state mechanisms.

5. Conclusions

86. The following conclusions may be reached:

1) The applicable law in the first instance is international humanitarian law, consisting of the Hague Regulations (being part of customary international law), together with Geneva Convention IV and to Addition Protocol I on 7 June 1993 to both of which Armenia is a party;

2) Armenian involvement in the conflict with Azerbaijan gave to that conflict an international character;

3) Armenian involvement in the capture and retention of the Nagorny Karabakh region of Azerbaijan and its surrounding districts was such as to bring the provisions of international humanitarian law into operation;

4) The facts show that Armenia is in occupation of these areas as that term is understood in international humanitarian law;

5) International law precludes the acquisition of sovereignty to territory by the use of force so that the occupation by Armenia of Azerbaijani territory cannot give any form of title to the former state;

6) As an occupying power, Armenia is subject to a series of duties under international law;

7) The core of these duties is laid down in article 43 of the Hague Regulations and focus upon the restoration and ensuring, as far as possible, public order and safety, while respecting, unless absolutely prevented, the laws in force in the country;

8) The presumption in favour of the maintenance of the existing legal order is particularly high and is supplemented by provisions in Geneva Convention IV;

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[102] See e.g. A. Cassese, *The International Criminal Court*, 2nd edn, Oxford, 2008; W. Schabas, *An Introduction to the International Criminal Court*, 3rd edn, Cambridge, 2007; R. Cryer, H. Friman, D. Robinson and E. Wilmshurst, *An Introduction to International Criminal Law and Procedure*, Cambridge, 2007; I. Bantekas and S. Nash, *International Criminal Law*, 2nd edn, London, 2003; and G. Werle, *Principles of International Criminal Law*, The Hague, 2005.

9) Private and public property is particularly protected. Private property cannot be confiscated, except where requisitioned for necessary military purposes, but even then requisitioning must take into account the needs of the civilian population;

10) The occupying state is no more than the administrator of public property and must safeguard the capital of these properties, and administer them in accordance with the rules of usufruct;

11) Destruction of private and public property is forbidden, except where such destruction is rendered absolutely necessary by military operations;

12) Protected persons are entitled, in all circumstances, to respect for their persons, their honour, their family rights, their religious convictions and practices, and their manners and customs. They are to be at all times humanely treated and protected especially against all acts of violence or threats thereof;

13) Armenia as the occupying power is under a special obligation with regard to Azerbaijani missing persons, of whom there are accepted to be 4,210 as of 1 January 2008;

14) Armenia bears a responsibility under international humanitarian law not to establish or facilitate the establishment of settlements of Armenians in the occupied territories;

15) Armenia cannot evade its responsibilities under international humanitarian law by means of its support for a subordinate local administration;

16) In addition to the traditional rules of humanitarian law, Armenia is also bound in its administration of the occupied territories by the provisions of those international human rights treaties to which it is a party;

17) Such treaties include the International Covenant on Civil and Political Rights; the International Covenant on Economic, Social and Cultural Rights; the Convention on the Prevention and Punishment of the Crime of Genocide; the Convention on the Elimination of All Forms of Racial Discrimination and the Convention against Torture;

18) Armenia is also bound by the European Convention of Human Rights in its occupation of Nagorny Karabakh and surrounding districts;

19) Armenia bears state responsibility for its breaches of international humanitarian law and international human rights law as discussed above and is under an obligation both to cease its violations and make reparation for them;

20) Such obligations under international humanitarian law and under international human rights law may be monitored and implemented by mechanisms in force for Armenia, such as the Human Rights Committee and the European Court of Human Rights, together with ICRC processes;

21) Insofar as war crimes, crimes against humanity and genocide are concerned, individual responsibility may lie and may be implemented through domestic courts in various involved or third party states, while state responsibility may be enforced where possible through relevant inter-state mechanisms.